

Summer 1983

## Teaching with Recent Decisions: A Survey of Past and Present Practices

Michael L. Closen  
*John Marshall Law School*

Follow this and additional works at: <http://ir.law.fsu.edu/lr>



Part of the [Legal Education Commons](#)

---

### Recommended Citation

Michael L. Closen, *Teaching with Recent Decisions: A Survey of Past and Present Practices*, 11 Fla. St. U. L. Rev. 289 (2017) .  
<http://ir.law.fsu.edu/lr/vol11/iss2/1>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Florida State University Law Review by an authorized editor of Scholarship Repository. For more information, please contact [bkaplan@law.fsu.edu](mailto:bkaplan@law.fsu.edu).

# FLORIDA STATE UNIVERSITY LAW REVIEW

VOLUME 11

SUMMER 1983

NUMBER 2

## TEACHING WITH RECENT DECISIONS: A SURVEY OF PAST AND PRESENT PRACTICES

MICHAEL L. CLOSEN\*

*The reports of a given jurisdiction in the course of a generation take up pretty much the whole body of the law, and restate it from the present point of view. We could reconstruct the corpus from them if all that went before were burned.*

—Oliver Wendell Holmes, *The Path of the Law*, 1897\*\*

### I. INTRODUCTION

An important trend in legal education is proceeding apace without fanfare, indeed, almost without notice. That trend is the increasing emphasis upon recent decisions by law school casebook authors and publishers and, necessarily, by law teachers who adopt those casebooks for classroom use. A survey of more than 275 law school casebooks reveals that until the middle of this century casebooks rarely emphasized recent decisions. However, there has been a steady increase in the percentages of recent opinions appearing as principal cases in the modern casebooks, and in the last thirty years several books have placed great emphasis upon them. Moreover, among casebooks published since 1975 and reviewed in the survey reported below, approximately twenty include seventy to one hundred percent recent decisions. Still, since thousands of casebooks and later editions have been published over the years and since there are more than four hundred casebooks presently available on the market,<sup>1</sup> the number of books that have used pri-

---

\* Associate Professor of Law, John Marshall Law School. B.S., M.A., Bradley University; J.D., University of Illinois. Member, Illinois State Bar Association Standing Committee on Legal Education and Admission to the Bar. Formerly: Reporter, Illinois Judicial Conference Committee on Contract Law; Assistant State's Attorney, Chicago, Illinois; Judicial Clerk, Illinois Appellate Court. The author gratefully acknowledges the assistance in the preparation of this article of Cheryl Johnson and Kurt Olsen, and of Professors Walter Kendall and Jerry Glover, who read and commented on an early draft of this paper.

\*\* O.W. HOLMES, *The Path of the Law*, in COLLECTED LEGAL PAPERS 169 (1920).

1. Currently, there are at least 439 casebooks available on the market. This total was compiled from the latest advertising brochures/booklists of the six major law school

marily recent decisions is really quite small. The survey shows that a significant number of the present casebooks deal predominantly with cases that are older than the typical student who is studying them. If Holmes was correct that in his day the body of caselaw repeated itself in a generation, then today the time required to "re-construct the corpus" is probably much shorter. If so, the extensive use of older cases warrants critical scrutiny.

The process of legal education is a matter about which all citizens, particularly all members of the legal profession and law students, should have concern and interest in order to ensure the continued effectiveness of the process, with the resultant continued competency of the bar. Such concern is especially important during this time when there is a "proliferating literature asserting and assessing claims of lawyer incompetence."<sup>2</sup> Canon 1 of the *Model Code of Professional Responsibility* of the American Bar Association provides that: "A lawyer should assist in maintaining the integrity and competence of the legal profession."<sup>3</sup> Among the Ethical Considerations stated in conjunction with that canon are expressions about the competence of the bar and legal education. "[The] bar has a positive obligation to aid in the continued improvement of all phases of . . . legal education."<sup>4</sup> The preamble to the proposed final draft of the *Model Rules of Professional Conduct* preserves this notion by pointing out that "a lawyer should . . . work to strengthen legal education."<sup>5</sup>

Currently, there is much criticism of legal education on numerous grounds. In 1982, the *National Law Journal* reported that there is "widespread dissatisfaction with the traditional three years of law school as they are now conducted in most institutions."<sup>6</sup>

---

casebook publishers: (1) West Publishing Company of St. Paul, Minnesota has about 193 casebooks; (2) The Foundation Press, Inc., of Mineola, New York has about 133 books; (3) Little, Brown and Company of Boston, Massachusetts has about fifty-five books; (4) Michie Bobbs-Merrill Law Publishing of Charlottesville, Virginia [which company was formed after the merger of Bobbs-Merrill and Michie, and hereinafter references are to either Bobbs-Merrill or Michie] has about thirty-five books; (5) Matthew Bender of New York, New York has about eighteen books; and (6) Callaghan & Company of Wilmette, Illinois has about five books. Although Callaghan was the largest publisher of law school casebooks during the early days of casebook publication (as disclosed by the information in Table II), Callaghan has recently determined to withdraw from the law student market.

2. Gorman, *Legal Education at the End of the Century: An Introduction*, 32 J. LEGAL EDUC. 315, 318 (1982).

3. MODEL CODE OF PROFESSIONAL RESPONSIBILITY Canon 1 (1980).

4. MODEL CODE OF PROFESSIONAL RESPONSIBILITY EC 1-2 (1980).

5. MODEL RULES OF PROFESSIONAL CONDUCT Preamble (Proposed Final Draft, 1981).

6. Berreby, *A New Year, New Ideas at Law Schools*, NAT'L L. J., Sept. 20, 1982, at 1, 26, col. 4.

During the Conference On Legal Education in the 1980's, Dean E. Gordon Gee of the University of West Virginia warned that "the problems confronting legal education today present perhaps the most serious challenge that we have yet faced since the early 1900's."<sup>7</sup> There are complaints about accreditation policies,<sup>8</sup> admission procedures and policies,<sup>9</sup> curricular offerings,<sup>10</sup> teaching practices,<sup>11</sup> and so forth.<sup>12</sup> Most of the criticism and the proposals for reform come from within the profession, and logically so, since the members of the profession are in the best positions to recognize and appreciate the problems and to have the understanding and experience to develop and to deal with ideas for improving the system of legal education.

---

7. Address by E. Gordon Gee, Conference on Legal Education in the 1980s (Nov. 12-14, 1981), reprinted in Conference on Legal Education in the 1980s, Monograph 3, p. 6 (Nov. 12-14, 1981) (session entitled *The Strengths and Weaknesses of Contemporary Legal Education*).

8. See, e.g., *Drop Specific Skills from 'Lawyer' Plan*, 67 A.B.A.J. 839 (1981); *Law Profs Hit ABA Skills Proposal*, 67 A.B.A.J. 142 (1981); *Law School Religion Standard Survives*, 68 A.B.A.J. 259 (1982); *Lawyer Skills Plan Gets Mixed Responses*, 67 A.B.A.J. 272 (1981); *New Accreditation Proposal Criticized*, 66 A.B.A.J. 1505 (1980); *Oral Roberts Univ. Wins Provisional Accreditation*, 67 A.B.A.J. 1095 (1981).

9. See, e.g., *ABA Mandates Law School Affirmative Action*, 66 A.B.A.J. 1051 (1980); Fossum, *Women in the Legal Profession: A Progress Report*, 67 A.B.A.J. 578 (1981); Gee, *supra* note 7; *Minority Enrollment Rises in the South*, 68 A.B.A.J. 409 (1982); Ramsey, *Affirmative Action at American Bar Association Approved Law Schools: 1979-1980*, 30 J. LEGAL EDUC. 377 (1980); *Report on Special Admissions at Boalt Hall After Bakke*, 28 J. LEGAL EDUC. 363 (1977).

10. See, e.g., Baird, *A Survey of the Relevance of Legal Training to Law School Graduates*, 29 J. LEGAL EDUC. 264 (1978); Berreby, *supra* note 6; *Drop Specific Skills from 'Lawyer' Plan*, 67 A.B.A.J. 839 (1981); Gee, *supra* note 7; Hunsaker, *Law, Humanism and Communication: Suggestions for Limited Curriculum Reform*, 30 J. LEGAL EDUC. 417 (1980); *Law Profs Hit ABA Skills Proposal*, 67 A.B.A.J. 142 (1981); *Lawyer Skills Plan Gets Mixed Response*, 67 A.B.A.J. 272 (1981).

11. See, e.g., Berreby, *supra* note 6; Botein, *Rewriting First-Year Legal Writing Programs*, 30 J. LEGAL EDUC. 184 (1979); Cramton, *Too Many Teachers 'Worship' Success*, 67 A.B.A.J. 143 (1981); Dillon, *Paper Chase and the Socratic Method of Teaching Law*, 30 J. LEGAL EDUC. 529 (1980); Gee, *supra*, note 7; Kimball & Farmer, *Comparative Results of Teaching Evidence Three Ways*, 30 J. LEGAL EDUC. 196 (1979); Little, *Skills Training in the Torts Course*, 31 J. LEGAL EDUC. 614 (1981); Strasser, *Teaching Contracts - Present Criticism and a Modest Proposal for Reform*, 31 J. LEGAL EDUC. 63 (1981).

12. See, e.g., Address by Derrick Bell, Annual Meeting of the Law Student Division of the American Bar Association (August, 1982), reprinted in 11 STUDENT LAWYER 18 (1982) (speech entitled *The Law Student as Slave*); Fossum, *supra* note 9; *Law Faculty Job Hunt: Prof Finds Age Bias*, 68 A.B.A.J. 142 (1982); *The Law Job Market: Brighter or Tighter?*, 66 A.B.A.J. 1194 (1980); *Law Schools, Students Face New Loan Plan*, 67 A.B.A.J. 551 (1981); *Say Job Hustling Sours Legal Education*, 68 A.B.A.J. 262 (1982); Scoles, Bauman, Gilman, Northridge & Sowell, *Motivating the Law School Faculty in the Twenty-First Century: Is There Life in Tenure?*, 30 J. LEGAL EDUC. 1 (1979); Velvel, *Suggested Improvements in Legal Education*, 29 J. LEGAL EDUC. 194 (1978).

In his commencement address at the John Marshall Law School in January of 1982, Dean Gerhard Casper of the University of Chicago emphasized that "the most rigorous standards of professional education are satisfied only when we teach the substance of the law and analytical skills as best we can."<sup>13</sup> In keeping with the goal of seeking the "best we can" for law students, this article is offered to identify one area of need for reform in law school teaching and to propose a means for rectifying the problem. Although the subject of this article constitutes only one small portion of the system of legal education, the cumulative impact of the case method of teaching is substantial.

This article will trace the history of the development of the casebook in American legal education, present the arguments for the recent casebook method of teaching, and conclude with some suggestions to the authors, publishers, and law teachers. In addition, a survey of the use of recent decisions in casebooks has been included and will be discussed.

Recent decisions are defined here as cases not more than ten years old as measured from the date of publication of the casebook in which they appear. Certainly, the designation of any specific time span is somewhat arbitrary, but generally, cases that are more than ten years old at the date of publication of a casebook will become quite old by the time a revision is completed or the book falls into disuse. Furthermore, there is no barrier on the insistence on recent principal decisions in casebooks when we consider the fact that more than 30,000 opinions are published each year.<sup>14</sup>

Nevertheless, in order to accommodate differing opinions as to what constitutes a "recent" case, the survey in this article provides data about three classes of principal cases: (1) recent decisions no more than ten years old, (2) decisions not more than twenty years old, and (3) decisions more than fifty years old.

## II. HISTORY OF THE CASEBOOK

A brief examination of the development of the casebook in American legal education will help to lay the groundwork on which the remainder of this article is built. This treatment will be brief, for the history of the American casebook is a subject to which entire articles could be devoted, and several have addressed the

---

13. Address by Gerhard Casper, at Commencement Exercise of John Marshall Law School (January 24, 1982), reprinted in 15 J. MAR. L. REV. 557, 561 (1982).

14. See *infra* notes 54-64 and accompanying text.

topic.<sup>15</sup>

The case method of study did not exist in early colonial America, and for obvious reasons. Not many volumes of published court reports or treatises existed, and few lawyers or students of the law had access to them.<sup>16</sup> Most importantly, there were no casebooks. Indeed, there were no law schools. Some colonial lawyers studied in England before coming to America or left the colonies to study in England before returning to America.<sup>17</sup> Others learned the law by serving on the staff of the clerk of a court or as an apprentice in the office of a practicing attorney.<sup>18</sup> Not surprisingly, the case method of study was not employed. The most prevalent method of law study for American lawyers was the law office apprenticeship, and this remained the common practice well into the 19th century.<sup>19</sup>

The first American law school, the Litchfield Law School, was founded somewhere between 1774 and 1784 and lasted for about fifty to sixty years.<sup>20</sup> The course of study was based upon a series of lectures on forty-eight subjects presented over a period of fourteen months.<sup>21</sup> The method of instruction was strictly by lecture. At about the same time as the founding of the Litchfield Law School, the first chairs of law were established at American universities—in 1779 at the College of William and Mary, in 1790 at the College of Philadelphia, in 1793 at Columbia College, in 1799 at Transylvania University, in 1801 at Yale University, and in 1815 at Harvard University.<sup>22</sup> Again, as in the Litchfield Law School, the method of instruction was by lecture.<sup>23</sup>

Credit for the founding of both the case method of study and the casebook in American legal education belongs to Professor Christopher Columbus Langdell of Harvard University.<sup>24</sup> His belief was

---

15. See, e.g., Ehrenzweig, *The American Casebook: "Cases and Materials,"* 32 GEO. L.J. 224, 228 (1944); Parma, *The Origin, History and Compilation of the Casebook,* 4 AM. L. SCH. REV. 741 (1922); Patterson, *The Case Method in American Legal Education: Its Origins and Objectives,* 4 J. LEGAL EDUC. 1, (1951). See also, A. HARNO, *LEGAL EDUCATION IN THE UNITED STATES* 51-70 (1953).

16. Consalus, *Legal Education During the Colonial Period, 1663-1776,* 29 J. LEGAL EDUC. 295, 309 (1978). See also, A. HARNO, *supra* note 15, at 19.

17. See Consalus, *supra* note 16, at 307; A. HARNO, *supra* note 15, at 19.

18. See Consalus, *supra* note 16, at 308; A. HARNO, *supra* note 15, at 19.

19. See A. HARNO, *supra* note 15, at 19, 52; see generally Consalus, *supra* note 16.

20. See A. HARNO, *supra* note 15, at 29.

21. *Id.* at 30.

22. *Id.* at 22-38.

23. *Id.* at 27.

24. See A. HARNO, *supra* note 15, at 53-54; Parma, *supra* note 15, at 741; Patterson,

that law is a science and should be studied in a manner akin to the study of the natural sciences.<sup>25</sup> Of course, the vehicle for such study was the body of case law. If a series of cases tracing the development of a principle was examined, a student of the law could gain a proper understanding of that principle.

Langdell prepared the first real casebook, *A Selection of Cases on the Law of Contracts*, which he employed in his classroom in advance sheet form in 1870 and which was published in 1871.<sup>26</sup> Preparation of the casebook allowed Langdell to teach by the case method, for without casebooks there was an enormous practical barrier to the systematic study of cases. As Langdell pointed out, there would be an "insuperable practical difficulty" in assigning a series of cases to "a large class all of whom would want the same books at the same time" from the university's law library.<sup>27</sup>

Development of the case method of instruction and the casebook sparked a serious debate which lasted at least forty years,<sup>28</sup> and which to some extent surfaces occasionally today. The opponents of the case method were the proponents of the lecture method. Supporting the advocates of the case method were some most persuasive reasons to utilize this approach to the teaching of law. Two key reasons have been identified by Professor Patterson. "The chief pedagogical presupposition of the case method was that students learn better when they participate in the teaching process through problem-solving than when they are merely passive recipients of the teacher's solutions."<sup>29</sup> The second justification involves the training of law students for actual law practice. "The case method trains students to solve practical problems, to do the work that they will later have to do as practicing lawyers."<sup>30</sup> Ultimately,

---

*supra* note 15, at 2. Although Langdell is generally credited with the founding of the case method and the casebook, in fact there were other advocates of this approach before Langdell, and the very first casebook in American legal education has been dated back to 1810 when Judge Zephaniah Swift of the Supreme Court of Connecticut published his "case-textbook" entitled *DIGEST OF THE LAW OF EVIDENCE*. See Ehrenzweig, *supra* note 15, at 238, 242-243; A. HARNO, *supra* note 15, at 54.

25. C. Langdell, in the Preface to the First Edition, reprinted in C. Langdell, *A SELECTION ON THE LAW OF CONTRACTS* viii (2d ed. 1879).

26. See Parma, *supra* note 15, at 741; Patterson, *supra* note 15, at 2.

27. *Id.* See also Address by Emlin McClain, First Session of the Section of Legal Education of the American Bar Association (August 30, 1893), reprinted in 3 *YALE L.J.* 17, 22-23 (1893); C. TIEDEMAN, *SELECTED CASES ON REAL PROPERTY* iii (1897).

28. See Patterson, *supra* note 15, at 1-2; Vance, standard foreword entitled *The American Casebook Series*, reprinted in G. BOKE, *CASES IN EQUITY* iii (1915).

29. Patterson, *supra* note 15, at 5.

30. *Id.* at 7.

the lecture method was replaced by the case method. Originally, the case method was intended to involve exclusively the study of a series of cases,<sup>31</sup> but its evolution has found it to be a mixture of lecture, problem-solving, and study of statutes and other materials as well as the study of cases.<sup>32</sup>

The first casebooks contained only cases, largely unedited. There were no notes, questions, problems, commentary or other materials.<sup>33</sup> These early books tended to be quite long, sometimes including more than four hundred,<sup>34</sup> five hundred,<sup>35</sup> or even six hundred<sup>36</sup> cases in a single volume, and sometimes taking up multiple volumes.<sup>37</sup> Gradually, changes in content occurred. Footnotes, comments, questions, problems, statutory materials, excerpts from law reviews and other sources were included, with a corresponding reduction in the number of principal teaching cases.<sup>38</sup> From very early on, casebook authors began to edit the principal teaching cases to economize on space. Sometimes, portions of cases or entire opinions would be summarized.<sup>39</sup> Small print was used in some portions of the books in order to save space.<sup>40</sup>

In the early days of the law school casebook, there were relatively few authors who wrote on a fairly small number of subjects.

---

31. See A. HARNO, *supra* note 15, at 65.

32. *Id.* at 65-70. See generally Ehrenzweig, *supra* note 15; Patterson, *supra* note 15.

33. See A. HARNO, *supra* note 15, at 65.

34. The following casebooks, for example, contained more than 400 principal cases: J. BEALE, A SELECTION OF CASES AND OTHER AUTHORITIES UPON CRIMINAL LAW (1894); W. FINCH, SELECTED CASES ON THE LAW OF PROPERTY IN LAND (2d ed. 1904); S. WILLISTON, CASES ON CONTRACTS (2d ed. 1922); S. WILLISTON, CASES ON CONTRACTS (3d ed. 1930); S. WILLISTON, CASES ON CONTRACTS (5th ed. 1949); Y. SMITH & W. PROSSER, CASES AND MATERIALS ON TORTS (2d ed. 1957). See also *infra* Table I, column 5.

35. The following casebooks, for example, contained more than 500 principal cases: A. CORBIN, CASES ON CONTRACTS (1921); G. COSTIGAN, CASES ON THE LAW OF CONTRACTS (1921); T. HUGHES, CASES ON THE LAW OF EVIDENCE (1921); W. BRITTON & R. BAUER, CASES ON BUSINESS LAW (1922); E. SUNDERLAND, CASES AND MATERIALS ON JUDICIAL ADMINISTRATION (1937). See also *infra* Table I, column 5.

36. The following casebook, for example, contained more than 600 cases: C. HEPBURN, CASES ON TORTS (1915). See also *infra* Table I, column 5.

37. The following casebooks, for example, were published in two volumes: Z. CHAFFEE & S. SIMPSON, CASES ON EQUITY - JURISDICTION AND SPECIFIC PERFORMANCE (1934); J. SMITH, A SELECTION OF CASES ON PRIVATE CORPORATIONS (2d ed. 1902); S. WILLISTON, A SELECTION OF CASES ON THE LAW OF CONTRACTS (1903); J. BEALE, A SELECTION OF CASES ON THE CONFLICT OF LAWS (1900) (contained three volumes); W. WALSH & R. NILES, CASES ON THE LAW OF PROPERTY (1939) (was to be in four volumes); J. GRAY, SELECT CASES AND OTHER AUTHORITIES ON THE LAW OF PROPERTY (2d ed. 1906).

38. See A. HARNO, *supra* note 15, at 65-70; see also *infra* Table I, column 5. See generally Ehrenzweig, *supra* note 15; Patterson, *supra* note 15.

39. See A. HARNO, *supra* note 15, at 67-68; Patterson *supra* note 15, at 16.

40. See Ehrenzweig, *supra* note 15, at 233.



Times have changed. Casebook publishing is big business now. More than a thousand law school professors have authored over four hundred casebooks which are available on the market today.<sup>41</sup> Revised editions and new casebooks are regularly published.<sup>42</sup>

### III. DILEMMAS IN CASE SELECTION: HISTORICAL VALUE V. RELEVANCE

In *The Nature of the Judicial Process*, Justice Cardozo said: "History, in illuminating the past, illuminates the present, and in illuminating the present, illuminates the future."<sup>43</sup> Yet given the limited amount of space available for the inclusion of cases in a casebook,<sup>44</sup> it becomes necessary to select only those cases which yield maximum illumination in a minimum of space, and often those cases will not be historical. The problem is made more complex by the nature of the "illumination" itself, for ideally it would provide sufficient background for the students to understand the progression of the law to its present state, and at the same time offer relevant guidelines to the students for the day they will become practicing attorneys. An imaginative approach to the selection and treatment of cases is necessarily required to accomodate such diverse needs.

The practice of extensively editing landmark cases in order to fit them into casebooks has met with substantial criticism from the academic field. As early as 1908, Dean Charles Carusi of the National University Law School complained that the leading cases were being "whittled away to nothing at all."<sup>45</sup> Professor Karl Llewellyn of Columbia University explained more fully the basis for this complaint:

The reason students are limited today largely to learning doctrine, and stopping there, instead of going on to work with it, is that they have no adequate fact-bases to work from . . . and we wonder why the edge is off the boys in the second year. It is off because we—as we made our instruction-books—have taken it off. We have been known, even, to edit down or edit out the facts.<sup>46</sup>

---

41. See *supra* note 1.

42. See generally *infra* Table I.

43. B. CARDOZO, *THE NATURE OF THE JUDICIAL PROCESS* 53 (1928).

44. For the 147 casebooks published since 1975 and reviewed in this survey, the average number of principal cases per book was 146.12. See *infra* Table I, column 5.

45. Carusi, *A Criticism of the Case System*, 2 AM. L. SCH. REV. 213, 217 (1908).

46. Llewellyn, *On the Problem of Teaching "Private" Law*, 54 HARV. L. REV. 775, 792-93 (1941). Other educators have voiced a similar complaint. See, e.g., G. CLARK, *CASES ON COM-*

Expanding casebook size to include more principal cases is not the answer. That was the approach of early law school casebooks, and was eventually rejected and abandoned.<sup>47</sup> If casebooks were increased in size, costs would quickly become prohibitive.<sup>48</sup> Moreover, there is some doubt as to whether the number of hours available to teach a quarter or semester course could accommodate more principal cases than are already taught.<sup>49</sup> If historical materials are to be used, then alternative treatments could perhaps make them more useful. Several possibilities suggest themselves. The landmarks can be summarized or capsulized in the form of note cases. Or, with appropriate modernization of their fact patterns, the decisions can serve as bases for problems for student analysis. Or, with regard to those areas of the law where fundamental issues were settled early and have not subsequently been litigated to any significant extent, they may be covered by textual material. At least one prominent legal educator has noted the benefits of the latter alternative:

[T]he presentation of an historical development in a textual summary, rather than by cases, will have many advantages. It saves time for the fuller exploration of contemporary law. It can interpret the early case material better than the student can possibly do with a limited historical equipment. It can go beyond the case material and present the contemporaneous political, economic or social setting of a legal concept or doctrine; it can also reveal that some of the reasons for the origin of the legal rule have ceased to exist. A series of cases is thus an inadequate method of presenting the historical development of the law.<sup>50</sup>

---

MON LAW PLEADING iii (1950) ("Any case book that is short enough to be covered in the time allotted to the particular subject in most law schools is likely to present an incomplete, if not fragmentary, view of the subject."); A. CORBIN, CASES ON THE LAW OF CONTRACTS ix (1921) ("There are too many jurisdictions, too great a conflict, too great a complexity of affairs, too industrious a production of opinions, for any volume to give full satisfaction."); S. WILLISTON, A SELECTION OF CASES ON THE LAW OF CONTRACTS vi (5th ed. 1949) ("The bulk of material appropriate, so far as its subject matter is concerned, for annotating cases on contracts is so enormous that inclusion of any considerable part of it in a case book is impossible.").

47. See *supra* notes 33-40 and accompanying text.

48. Costs of casebooks are already high. See *infra* note 103 and accompanying text.

49. Of course, during the preparation of casebooks authors and publishers should have in mind the approximate number of cases that can be covered in a course, taking into account factors such as the quantity and difficulty of the cases, notes, problems and other materials.

50. Patterson, *supra* note 15, at 10. Similar ideas are evidenced in the preface to the contract casebook I recently co-authored:

Mindful of the important function of contracts in the developing of sensitivity

Finally, perhaps one of the most promising treatments would be to select recent principal cases which discuss landmark opinions. Using this alternative, a balance would be struck between the historical and the contemporary, and the students could avail themselves to the benefits of each.

There are other good reasons for teaching with recent cases. One of the primary purposes of a law school education is to prepare a student for the practice of the law.<sup>51</sup> A continuing criticism of the law schools "is that the training they offer is wanting in perspective and breadth of learning, but the most vocal stricture is that it is not practical enough."<sup>52</sup> As Professors Jesse Dukeminier of the University of California at Los Angeles and Stanley Johanson of the University of Texas pointed out in the preface to their casebook, "[W]e are trying to produce lawyers, as distinguished from persons who know rules of law. Mechanical matters, increasingly delegated to paraprofessionals, and old learning of little modern importance have been pruned away in order to create space for deeper analysis of fundamentals."<sup>53</sup> One of the more obvious methods of preparing students for modern-day and real-life practice is to provide modern cases for study.

There is a wealth of excellent recent cases to choose from. Authors of an earlier day had to contend with a problem which is not present today: there were relatively few published decisions from which to draw for the publication of a casebook. It has been esti-

among students to legal history and the growth of legal institutions. . . , we have, nonetheless, elected to pursue the objective by a different route. [W]e have collectively noted concern among our students about being prepared for the practice of law, and even for more advanced courses in law school, with materials that emphasize the law of contracts as it was known to Langdell and Holmes. We have found that the fundamentals of contracts and contracting can be comprehensively addressed in a more contemporary fashion, principally from recent cases, without sacrificing analysis or foundation knowledge offered in the older "landmark" cases.

All principal cases in this volume were decided in the decade of the 1970's and most since 1975. We have not, however, overlooked the legal landmarks that are often so crucial to conceptual understanding of the contemporary cases. Virtually every classic contracts case is included in either synopsis or note form, in most instances in sufficient detail to enable the student to identify its progeny.

M. CLOSEN, P. FERBER, R. PERLMUTTER, & J. WITTENBERG, *CONTRACTS: CONTEMPORARY CASES AND MATERIALS* (1980) [hereinafter cited as M. CLOSEN].

51. See, e.g., Bell, *supra* note 12, at 20; Turner, *Publish or Be Damned*, 31 J. LEGAL EDUC. 550, 550 (1981).

52. A. HARNO, *supra* note 15, at 2.

53. J. DUKEMINIER & S. JOHANSON, *FAMILY WEALTH TRANSACTIONS: WILLS, TRUSTS, AND ESTATES* xxix (2d ed. 1978).

mated that the fifty year period between 1790 and 1840 produced only about 50,000 published opinions in the United States.<sup>54</sup> The fifty years from 1840 to 1890 produced about 450,000 more reported decisions.<sup>55</sup> The fifty years from 1890 to 1940 produced another 1,250,000 reported cases.<sup>56</sup> Between 1940 and 1960 about 600,000 or 700,000 decisions were published for a total of more than 2,250,000 opinions by 1962.<sup>57</sup> In 1969 it was estimated that there were 3,500,000 reported American cases,<sup>58</sup> although other scholars writing in the mid-1970's estimated that there were then about 3,000,000 published judicial opinions.<sup>59</sup> It has been estimated that more than 30,000 opinions are being published annually in this country.<sup>60</sup> And this number will grow. Contributing to the increase in litigation are the city councils and state legislatures which continue to adopt and amend ordinances and statutes.<sup>61</sup> Administrative agencies are created, adopt procedures, and make rulings.<sup>62</sup> Additionally, new courts are being created,<sup>63</sup> and judges are being added to already existing courts.<sup>64</sup> In light of these factors, it would seem there is ample opportunity for casebook authors to draw almost exclusively from very recent cases should they so desire.

Another important reason to utilize recent decisions is to increase the interest the students will find in the materials because recent cases (as trite as it may have become to say) will be more relevant to the students. Interest and attention of students at all levels of education promotes their learning, and this proposition

---

54. See Prince, *Law Books, Unlimited*, 48 A.B.A.J. 134 (1962).

55. *Id.*

56. *Id.*

57. *Id.*

58. M. PRICE & H. BITNER, *EFFECTIVE LEGAL RESEARCH* 124 (3d ed. 1969).

59. See M. COHEN, *HOW TO FIND THE LAW* 2 (7th ed. 1976).

60. *Id.* Of course, not all decisions are soundly reasoned ones, and some of the worst can be among the best teaching tools for a professor who will lead a classroom discussion critiquing the flaws in the analysis of the facts and legal precedent and/or in the application of the principles of law to the facts of the case.

61. See, e.g., M. COHEN, *supra* note 59, at 2; A. HARNO, *supra* note 15, at 68.

62. See, e.g., A. HARNO, *supra* note 15, at 68 ("The scope of the law in the human interests and institutions it touches is constantly increasing, principally today through the introduction of vast new fields of legislation and administrative regulations.").

63. See, e.g., *Texas Appellate Jurisdiction Expanded*, 67 A.B.A.J. 1248 (1981); 28 U.S.C.S. § 41 (Law. Co-op., Jan. 1982) (which establishes the United States Court of Appeals for the Eleventh Circuit effective October 1, 1981).

64. See, e.g., *Lawyers Recruited as Judges in Oklahoma*, 68 A.B.A.J. 792 (1982). Compare *THE AMERICAN BENCH-JUDGES OF THE NATION v* (1977), with *THE AMERICAN BENCH-JUDGES OF THE NATION v* (2d ed. 1979).

has been well documented. Consider, for example, the statement of the renowned psychologist William James:

In all pedagogy the great thing is to strike the iron while hot, and to seize the wave of the pupil's interest in each successive subject before its ebb has come, so that knowledge may be got and a habit of skill acquired—a headway of interest, in short, secured, on which afterward the individual may float.<sup>65</sup>

The notion that individuals will learn more effectively from exposure to materials that are relevant and interesting has been echoed by other psychologists as well.<sup>66</sup> The use of recent cases also offers other learning advantages. As Professor Llewellyn observed: "[W]hat slows up case-instruction is the student's lack of grasp of the background of life and meaning. When will we wake up to what we all know? Strange facts mean slow reading."<sup>67</sup> The fact patterns in contemporary cases are more likely to obviate this pitfall.

#### IV. CASEBOOK SURVEY PROCEDURE

Although the survey conducted and reported here did not employ a strictly scientific procedure in the selection of casebooks for review, for a number of reasons the survey constitutes a representative sampling of the casebook market. First, a substantial number of casebooks published between 1875 and 1982 were examined. The survey reviewed 282 of those books, with each of the decades since 1900 well represented.<sup>68</sup> Second, all five of the current major casebook publishing companies are represented in the sampling, with at least several books from each publisher included.<sup>69</sup> Third, a large number of substantive law subjects, at least fifty of them, are treated by the casebooks reviewed.<sup>70</sup> Fourth, a majority of the

65. W. JAMES, *PRINCIPLES OF PSYCHOLOGY* 400 (Vol. II, 1893). James' views are echoed by legal educators as well. See, e.g., McClain, *supra* note 27, at 18 ("it is by all means important, whatever may be the particular system used, that the interest of all students, whether they are quick or slow of comprehension, shall be constantly maintained at a high pitch."); Morgan, *The Case Method*, 4 J. LEGAL EDUC. 378, 381 (1952) ("Much, if not everything . . . depends upon the instructor and his capacity to arouse in the student an enthusiasm for the subject.").

66. See E. THORNDIKE, *EDUCATIONAL PSYCHOLOGY* 120-121 (Vol. III, 1914); J. TRAVERS, *FUNDAMENTALS OF EDUCATIONAL PSYCHOLOGY* 455 (1970).

67. Llewellyn, *supra* note 46, at 792.

68. See *infra* Table I, column 1.

69. See *infra* Table II; see also *supra* note 1.

70. See *infra* Table I, column 2; see also *infra* Table II.

casebooks published since 1980 are included. More than seventy-five such books are examined by this survey.<sup>71</sup>

The survey counted only principal or main teaching cases in the casebooks. A main teaching case is one designated as such by a casebook author because it is set apart from the other material by a caption in bold-face print and usually indented and centered on a page. The procedure employed was simple. Principal teaching cases were merely counted by age categories. Because the casebook author's designations of main teaching cases were relied upon, some cases that were counted were quite short, some quite long. One book contained only four cases,<sup>72</sup> while another book contained 660 cases.<sup>73</sup>

Other limitations on the results of this survey should be noted. The survey reviews only casebooks,<sup>74</sup> not textbooks, hornbooks, nutshells, readers and the like (including most materials for skills courses such as legal writing, legal research, moot court and trial practice). The survey does not take into account casebook supplements and the contents of teacher's manuals which may include additional and more recent opinions. By treating only main teaching cases, other materials such as statutes, law review and restatement excerpts, note materials and cases, and problems have been excluded from consideration. However, the assumption is that the recency of the main teaching cases approximates that of these other materials. Furthermore, data with regard to these other kinds of materials would be extremely painstaking and difficult to tabulate and compare from casebook to casebook. Where necessary, percentage figures were rounded to the nearest whole numbers.

Table I (see Appendix) sets out nine columns of data gathered in the course of the survey. The first column identifies the year the casebook was published. The second column describes in a one-word abbreviation the subject matter of the casebook surveyed. The complete titles of the casebooks surveyed, along with their full citations including the identities of the publishers, appear in Table II (see Appendix). The third column in Table I, entitled "Ed.," discloses the edition number of each of the casebooks reviewed.

---

71. See *infra* Table I. The survey was completed in September, 1982.

72. T. MORGAN & R. ROTUNDA, *PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY* (1976).

73. C. HEPBURN, *supra* note 36.

74. Some books are now referred to as "coursebooks," whatever that means, and some of them were included in the survey.

This information is included in order to provide data about the frequency and content of revisions of casebooks (as will be discussed below). The fourth column is entitled "author." This column lists the last name of the author of a casebook and, in instances where there are multiple or co-authors, the last name of the first-named author. Table II identifies the names of all of the co-authors of each of the casebooks surveyed.

The fifth column in Table I shows the total number of principal or main teaching cases in each of the casebooks. The sixth column sets out the percentage of recent cases less than ten years old. Actually, recent cases were counted eleven years prior to publication in the belief that there is little opportunity to include cases decided in the same year that a casebook is published. Once the manuscript for a book is completed and submitted to a publisher, there is usually a time lag of several months before the book is actually printed and available on the market. Thus, by including eleven years in the actual count for recent cases, a full ten years of time was available from which the authors might have selected principal decisions. The seventh column is labeled "percent under twenty," and it refers to the percentage of principal cases less than twenty years old. Again, to allow for a full twenty years, cases were counted back for a twenty-one year period. The cases less than ten years old are included in order to determine the total number of cases less than twenty years old. The eighth column is called "percent over fifty," and refers to the percentage of principal cases more than fifty years old. The actual period of time considered for counting purposes was fifty-one years. (Of course, the data reported also discloses indirectly the percentage of cases twenty to fifty years old. That is, by adding the numbers in the sixth and eighth columns and subtracting from one hundred, the result is the percentage of cases twenty to fifty years old.) The ninth column provides a reference number for access to the corresponding data in Table II.

Table II, gives full citation information about each of the casebooks surveyed, listing each book in alphabetical order by surname of the author (for the first author listed on books having co-authors). The information includes the names of the authors, the title of the book, the edition (where appropriate), the publisher, and the year of publication.

## V. SURVEY RESULTS

The survey reviewed a total of 282 casebooks published between

1875 and 1982. As indicated by the data in Table I, there has been a steady increase in the use of recent decisions in law school casebooks.<sup>75</sup>

Prior to 1950, casebooks rarely placed much emphasis upon recent decisions. The survey examined sixty-two casebooks published in the seventy-five year period between 1875 and 1949. Of those books, seventeen contained less than ten percent recent cases, and about two-thirds of them contained less than twenty-five percent recent cases. Correspondingly, many books included substantial numbers of cases more than fifty years old. About one-third of them contained forty percent or more such cases.<sup>76</sup> Only five casebooks published between 1875 and 1949 included fifty percent or more recent decisions. However, several law professors did stress recent cases. The first of these was Professor Tiedeman who published his casebook on real property in 1897, for he included eighty-seven percent recent cases in that book.<sup>77</sup> Professor Hamlin's 1904 casebook on copyright law contained eighty-two percent recent cases;<sup>78</sup> Professor Cooley's 1931 casebook on sales contained fifty-one percent recent cases;<sup>79</sup> Professor Seasongood's 1941 casebook on municipal corporations contained seventy-nine percent recent cases;<sup>80</sup> and Professor Fordham's 1949 casebook on local government law contained sixty-five percent recent cases.<sup>81</sup> These are remarkable early efforts. Clearly, there was not a great deal of concern with recency of main teaching cases in the early casebooks. Rather, there was substantial emphasis upon decisions more than fifty years old.

The next twenty-five years witnessed a marked increase in the number of recent cases in the casebooks. The survey examined seventy-three books published between 1950 and 1974, and it reveals that twenty, or over one-quarter, of the casebooks of that period contained fifty percent or more recent decisions, with the bulk of them having been published between 1970 and 1974. Of those twenty books, eight of them contained more than seventy percent

---

75. It is interesting to note that Dean Harno identified this trend, although he did not present data on the matter, when he wrote that the modern casebook "stresses recent cases." HARNO, *supra* note 15, at 66.

76. See generally *infra* Table I.

77. C. TIEDEMAN, *supra* note 27.

78. A. HAMLIN, COPYRIGHT CASES (1904).

79. R. COOLEY, ILLUSTRATIVE CASES ON THE LAW OF SALES (2d ed. 1931).

80. M. SEASONGOOD, CASES ON MUNICIPAL CORPORATIONS iii-iv (2d ed. 1941).

81. J. FORDHAM, LOCAL GOVERNMENT LAW - TEXT, CASES & OTHER MATERIALS (1949).



recent cases.<sup>82</sup> Among those eight books some traditional subjects were treated, such as commercial law,<sup>83</sup> domestic relations,<sup>84</sup> estate planning,<sup>85</sup> and real property.<sup>86</sup> There was a corresponding decline in the number of cases more than fifty years old included in the casebooks published between 1950 and 1974.

The significant increase in the use of recent decisions which started in about 1970 continued through the late 1970's and into the 1980's. The survey reviewed sixty-eight books published in the five year period between 1975 and 1979. It shows that twenty-five of them, or about thirty-seven percent, contained fifty percent or more recent cases and that ten of them contained more than seventy percent recent decisions.<sup>87</sup> Those ten books covered some traditional subjects such as commercial law<sup>88</sup> and criminal law.<sup>89</sup> Again, there was a decline in the use of decisions more than fifty years old. The survey examined seventy-nine books published since 1980. Of those seventy-nine books, thirty-two of them, or about forty-one percent, contained fifty percent or more recent decisions, and eleven of them included more than seventy percent recent cases. These eleven books also treated some traditional subjects, including administrative law,<sup>90</sup> commercial law,<sup>91</sup> and contracts.<sup>92</sup> The use of cases more than fifty years old continued to decline into the 1980s.

Even more dramatic movement in the directions indicated can be observed when the figures in Table I dealing with cases less

82. See generally *infra* Table I.

83. V. COUNTRYMAN & A. KAUFMAN, *COMMERCIAL LAW - CASES AND MATERIALS* (1971).

84. M. PAULSEN, W. WADLINGTON, & J. GOEBEL, *CASES AND OTHER MATERIALS ON DOMESTIC RELATIONS* (5th ed. 1970).

85. D. WESTFALL, *ESTATE PLANNING PROBLEMS* (1973).

86. E. RABIN, *FUNDAMENTALS OF MODERN REAL PROPERTY LAW* (1974).

87. See generally *infra* Table I.

88. C. CORMAN, *COMMERCIAL LAW - CASES AND MATERIALS* (1976); D. EPSTEIN AND J. MARTIN, *BASIC UNIFORM COMMERCIAL CODE TEACHING MATERIALS* (1977); J. HONNOLD, *CASES AND MATERIALS ON COMMERCIAL LAW* (3d ed. 1976); W. WARREN, W. HOGAN, & R. JORDAN, *CASES AND MATERIALS ON COMMERCIAL AND CONSUMER TRANSACTIONS* (2d ed. 1978).

89. W. LAFAYE, *PRINCIPLES OF CRIMINAL LAW - CASES, COMMENTS AND QUESTIONS* (1978); H. UVILLER, *THE PROCESSES OF CRIMINAL JUSTICE: INVESTIGATION AND ADJUDICATION* (2d ed. 1979).

90. G. ROBINSON, E. GELLHORN, & H. BRUFF, *THE ADMINISTRATIVE PROCESS* (2d ed. 1980); D. ROTHSCHILD & C. KOCH, *FUNDAMENTALS OF ADMINISTRATIVE PRACTICE AND PROCEDURE - CASES AND MATERIALS* (1981).

91. A. SCHWARTZ & R. SCOTT, *COMMERCIAL TRANSACTIONS - PRINCIPLES AND POLICIES* (1982).

92. M. CLOSEN, *supra* note 50; W. MCGOVERN, *CASES, STATUTES AND READINGS ON THE LAW OF CONTRACTS* (1980).

than twenty years old are taken into account. Over the years, there has been a very substantial increase in the use of cases less than twenty years old.<sup>93</sup> As Table I points out, among the 147 casebooks published since 1975 and included in the survey, twenty-seven of them contain ninety percent or more cases less than twenty years old; and sixty-four, or about forty-four percent, of them contained seventy percent or more cases less than twenty years old.

However, as disclosed by Table I, there are also some remarkably low recency figures for casebooks published since 1975. There are twenty-five books with less than twenty-five percent recent decisions and thirty-three books containing less than fifty percent cases under twenty years old.

The casebook survey examined many books that were revised editions of earlier works, and, in a substantial number of instances, consecutive editions were reviewed. The survey examined 165 second or later editions including twenty-seven sets of consecutive editions.<sup>94</sup> This approach was adopted in order to provide a basis for discussion of the subject of writing and publishing casebook revisions.

The survey reveals an interesting fact about revised editions. On the average, modern casebooks seem to be revised every five to eight years, whereas early casebooks were not revised as often. It was not uncommon for early casebooks to be revised only every ten to twenty years.<sup>95</sup> Of course, some casebooks are never revised and simply fall into eventual disuse.

## VI. CONCLUSION

As Table I indicates, relatively little attention has been paid to recent principal cases in a significant number of casebooks. Several factors are responsible for this deficiency. One such factor is that many casebook authors, beginning with Langdell, simply believe that the law can best be taught by using a series of cases to illustrate the historical evolution of a legal doctrine. The inclusion of old cases in their casebooks is merely an act which is consonant with their personal teaching philosophies.

Perhaps a less admirable reason for ignoring recent cases can be found in the system of tenure and promotion adopted by the nation's universities. The "publish or perish" threat that looms over

---

93. See *infra* Table I, column 7.

94. See *infra* Table I, column 3.

95. See *infra* Table I, columns 1 and 3.

academics generally,<sup>96</sup> and law professors in particular,<sup>97</sup> has resulted in substantial pressure to rapidly produce literature of all types. As a consequence, the extra effort required to continually search the reporters and other sources for the latest developments in case law will sometimes be avoided for the easier task of reviewing law that has already received extensive coverage.

Another flaw can be found in the publishing process itself. The attractions of becoming a casebook author are manifold. First, money is a major reason. While law professors are not paid for writing law review articles, publishing a casebook can directly lead to royalties from the book sales. Second, as a general rule, greater status or prestige attaches to the author of a casebook than to the author of an article or articles. As a result, authors compete for success in a crowded field. Once established, authors must maintain their favorable position by revising their books. As Dean Harno noted:

Why publish a new edition of a casebook? The question is a pertinent one. There are, of course, various motivations which might influence the editor of a casebook to publish a new edition of his book. The acquisitive urge, for example, might be the inducement. Secondhand books are cutting into the sales and the market is falling. His publisher may be pressing him and threatening to take his business elsewhere. Other teachers may be getting out works in his field or new editions of their books, and competition may be keen.<sup>98</sup>

While virtually every author of a casebook revision announces in the preface that a key reason, and sometimes the sole reason, for the revision is a concern that the materials be kept current,<sup>99</sup> such

96. See, e.g., Redford, *Publish or Else*, 38 AM. ASSN. U. PROFS. BULL. 608 (Winter 1952-53). See also Fruge, *Two-Level System for Scholarly Writings, Or, Is Publishing Necessary?*, 31 J. GEN. EDUC. 265 (1980); Gore, *Something There Is That Doesn't Love a Professor: "The Mismanagement of College Libraries" Revisited*, 107 LIB. J. 686, 691 (1982).

97. Bruce & Sweigert, *The Law Faculty Hiring Process*, 18 HOUS. L. REV. 215, 246-48 (1981). ("As a result of the pressure to publish, there has been a growing dissatisfaction with the quality of material produced."). See, e.g., Bard, *Scholarship*, 31 J. LEGAL EDUC. 241, 242 (1981) (The pressure to produce "scholarship" in legal education "reciprocates, in kind, by forcing us to accept as scholarship work that is little more than ritualized diligence."); Turner, *supra* note 51 at 553 ("[A] person motivated only by fear will often develop an amazing talent for short-cutting unwelcome tasks which are imposed by some more powerful person or organization.").

98. A. HARNO, *CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE* iii (4th ed. 1957).

99. See, e.g., A. CONRAD, R. KNAUSS, & S. SIEGEL, *ENTERPRISE ORGANIZATION - CASES, STATUTES AND ANALYSIS ON LICENSING, EMPLOYMENT, AGENCY, PARTNERSHIPS, ASSOCIATIONS,*

proclamations are often misleading. That is, in most situations in which successive editions were reviewed in the survey, the percentages of recent cases *decreased* in the revised editions. In fact, most often the revised editions contained a significantly smaller percentage of recent cases.

Finally, the failure to use recent cases may stem in part from a lack of feedback from the consuming public. It is quite possible authors simply are not aware of any dissatisfaction with the extensive use of old cases. The students who experience the book's weaknesses are generally required to purchase the book and so have little input into the selection process. If a book is of poor quality, few people will learn of it. Currently, few book reviews of law school casebooks are being published.<sup>100</sup> Dissatisfaction, if evident at all, tends to be a fairly localized phenomenon. In addition, even if reviews were published more often, the fact remains that "[u]ntil one actually teaches from a book, it is impossible to predict how good a teaching tool it is."<sup>101</sup>

Some changes are in order. In 1944, Albert Ehrenzweig called for a "comprehensive study of casebook writing."<sup>102</sup> Almost forty years later, it has not yet been conducted. Such a study should address unanswered questions about the casebook publishing process. For

AND CORPORATIONS xviii (3d ed. 1982); G. COSTIGAN, 5 CASES ON THE LAW OF PROPERTY - WILLS, DESCENT AND ADMINISTRATION v (2d ed. 1929); B. KAPLAN & R. BROWN, CASES ON COPYRIGHT, UNFAIR COMPETITION, AND OTHER TOPICS BEARING ON THE PROTECTION OF LITERARY, MUSICAL, AND ARTISTIC WORKS xvii (3d ed. 1978); M. ROSENBERG, J. WEINSTEIN, H. SMIT, & H. KORN, ELEMENTS OF CIVIL PROCEDURE - CASES AND MATERIALS xv (3d ed. 1976); S. SATO & A. VAN ALSTYNE, STATE AND LOCAL GOVERNMENT LAW xxii (2d ed. 1977); E. SCOLES & R. WEINTRAUB, CASES AND MATERIALS ON CONFLICT OF LAWS xi (2d ed. 1972); WILLISTON, A SELECTION OF CASES ON THE LAW OF CONTRACTS v (5th ed. 1949).

The positive approach of Professors Donald Gillmor of the University of Minnesota and Jerome Barron of George Washington University should guide other authors of revised editions:

When a casebook proceeds from one edition to another, there is always the danger that the bulky and worn furniture of earlier editions will somehow make its way to the new edition no matter how ill-fitting and outmoded their reappearance. We have tried hard to discard much of the material in the previous edition even though some of that material might still have historical interest. This edition constitutes a substantial re-write of its predecessor.

D. GILLMOR & J. BARRON, MASS COMMUNICATIONS LAW—CASES AND COMMENTS xviii (3d ed. 1979).

100. See, e.g., Cavers, *Book Reviews in Law Reviews: An Endangered Species*, 77 MICH. L. REV. 327 (1979). Also, a search of the table of contents for the *Journal of Legal Education*, Volumes 29-32, revealed that in the last five years only five casebooks were reviewed.

101. Whaley, *Teaching Law: Advice for the New Professor*, 43 OHIO ST. L.J. 125, 129 (1982).

102. Ehrenzweig, *supra* note 15, at 224.

instance, why are casebooks revised so often when the number of recent cases in them actually declines? It would seem wise to closely scrutinize the motives behind apparently superfluous revisions. Also, just how much quality control really exists in the casebook industry? How many manuscripts are rejected? How many manuscripts undergo major revisions before they are published? How much profit is earned from casebook publishing by each of the casebook companies? These are but a few relevant questions that could only be answered by an extensive investigation into all phases of casebook writing.

The answer to one relevant question is certain. On the question of who pays the price for abuse or extravagance in the system of casebook publication, the answer is definitely law students. Especially in a time of desperate financial conditions for many law students (with rising tuition costs, growing unemployment, and declining governmental aid), a thorough investigation and report about casebook publication would seem to be in order. Casebook publication is big business. The price of a law school casebook averages about twenty to twenty-five dollars today,<sup>103</sup> and most law students purchase between eight and ten casebooks each school year.<sup>104</sup> Thus, each student spends about \$160 to \$250 per year on new casebooks alone (without taking into account other expenditures for published materials such as hornbooks, statutory and casebook supplements, and other study aids). It is interesting to note that the publishers do not disclose the prices of their casebooks to law professors when complimentary copies are sent to faculty members for examination and possible adoption, and that the book lists received by faculty members from the three largest of the five major casebook publishers do not contain price information.<sup>105</sup> Why do the publishers fail to volunteer this information to professors?<sup>106</sup> Figures for 1981 showed that enrollment in all law

---

103. This estimate was derived after examination of the price lists of a number of casebook publishers and after consultation with a number of managers of law school bookstores.

104. Most law students enroll in four or five courses each semester, for a total of eight to ten courses per year. At schools on the quarter system, the total number would be about the same.

105. The book lists sent to professors by West, Foundation, and Little, Brown, do not contain price information. Only the Michie and Matthew-Bender brochures show prices.

106. Law school professors can obtain price information by contacting their bookstores or the casebook publishing companies. The important point is that the faculty member must take affirmative steps in order to acquire this information.

schools in the United States totalled 129,739 students.<sup>107</sup> Therefore, the expenditure by law students for new casebooks probably ranges somewhere between twenty and thirty-three million dollars. It should be mentioned that there are some sales of used casebooks which will reduce the number of sales of new books, but the number of such sales probably has a minor impact under the present system. Probably less than ten percent of student acquisitions of casebooks takes the form of used books.<sup>108</sup>

The American Bar Association and/or the Association of American Law Schools should undertake an investigation of casebook publication. Perhaps the report will reveal a lack of abuse and extravagance and general satisfaction with casebooks and industry practices. At a minimum, the legal education community and others in the legal profession generally, including law students, are entitled to answers. Law teachers are consumers, and law students are forced to spend many millions of dollars each year on casebook purchases.

The casebook publishing companies owe a professional and ethical responsibility to be responsive to legitimate inquiries from the legal community. Casebooks have a fundamental influence on the legal profession by providing the materials that shape law students into lawyers. In this regard, casebook publishers provide what might almost be viewed in a sense to be a quasi-public service by acting as virtually the exclusive supplier of study materials to the law schools and to law students. Moreover, the casebook publishers are members of a small group, in which there are only five active participants.<sup>109</sup> Therefore, casebook companies owe some degree of accountability to the legal profession, and this obligation is not satisfied by the presence of a few law professors on the editorial advisory board for each of the casebook companies.<sup>110</sup>

---

107. AMERICAN BAR ASSOCIATION, A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES - 1981-1982 at 53 (1982).

108. This estimate was derived after consultation with a number of law school bookstore managers.

109. See *supra* note 1.

110. Each casebook company has an editorial advisory board, and a total of thirty-nine law professors serve on the editorial boards of the five major publishing companies. West has ten professors on its board; Foundation has ten; Little, Brown has seven; Michie has seven; and Matthew-Bender has five. These thirty-nine professors are scholars of national reputation, almost all of whom teach at the nation's most distinguished law schools. Importantly, virtually all of these individuals have authored casebooks published by their respective publishing companies. Some important questions about these boards should be answered. For instance, how do these boards function procedurally? What are the standards for acceptance of a manuscript for publication? Are the casebook companies genuinely ac-

In addition to the casebook companies taking on more responsibility in terms of disclosure of information to the legal community, casebook authors should disclose information about their principal cases somewhere in the introductory materials to their casebooks, including the number of principal cases and their recency. This would force casebook authors to consider the recency of their cases and alert law teachers who might adopt the books to the matter of recency in a summary fashion without requiring independent searches and counts. This idea is not new, although very few casebooks provide such information. In 1921, in the preface to his casebook on contract law, Professor Corbin disclosed: "Of the 594 cases in the present volume, 258 have been decided since 1900, 224 between 1800 and 1899, and 112 prior to 1800; 185 cases are English, while 409 represent the federal courts and thirty-nine different states in the Union."<sup>111</sup> Professors Young Smith of Columbia Univeristy and William Prosser of the University of California provide similar data about their 1962 casebook on torts, although it does not fully describe the recency of materials. As they pointed out, "[t]he number of cases has . . . been reduced from 394 to 330, of which ninety-three are new cases, most of them decided since 1955."<sup>112</sup> We provided a disclosure of the recency of cases (although not of the total number of cases) in the preface to our 1980 casebook when we indicated, "[a]ll principal cases in this volume were decided in the decade of the 1970's, and most since 1975."<sup>113</sup> In 1980 in his casebook on contracts, Professor Vernon disclosed exactly the kind of information that should be stated: "Of the 152 principal cases presented in the course book, fifty-six per cent were decided in 1970 or later and seventy-five per cent were decided in 1960 or later."<sup>114</sup> Such disclosure would be a simple and helpful matter if done by all casebook authors.

The trend is clearly in the direction of including larger percentages of recent principal decisions in today's casebooks. However, there is much room for improvement in this regard. Hopefully, the trend will continue to grow in momentum. Because casebook size and course length prevent thorough treatment of both historical and recent cases, a choice between these two divergent paths of writing and teaching must be made. As Holmes long ago indi-

---

countable to these boards?

111. A. CORBIN, *supra* note 46 at x.

112. Y. SMITH & W. PROSSER, *CASES AND MATERIALS ON TORTS* ix (3d ed. 1962).

113. M. CLOSEN, *supra* note 50, at iii.

114. D. VERNON, *CONTRACTS: THEORY AND PRACTICE* v (1980).

cated,<sup>115</sup> and as is even more true today, there is an abundance of recent cases. Sound pedagogical reasons support their use in law teaching. Recency should be the path of the future.

---

115. O.W. HOLMES, *The Path of the Law*, in COLLECTED LEGAL PAPERS 169 (1920).



## Appendix

TABLE I

## THE CASEBOOK SURVEY

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1875	Procedure	1	Ames	154	2	4	51	1
1888	Contracts	1	Keener	360	16	32	40	145
1893	Torts	2	Ames	393	12	23	51	2
1893	Agency	1	Mechem	212	45	73	8	182
1894	Criminal	1	Beale	455	13	24	41	9
1897	Property	1	Tiedeman	151	87	96	0	258
1897	Contracts	2	Langdell	329	4	13	58	159
1902	Suretyship	1	Bunker	76	32	59	13	26
1904	Copyright	1	Hamlin	126	82	100	0	120
1904	Property	2	Finch	474	5	25	31	91
1905	Procedure	1	Keen	328	1	2	93	144
1905	Sales	2	Willisont	298	6	19	41	278
1907	Suretyship	1	Stearns	172	10	35	30	247
1910	Decedents	1	Costigan	290	32	43	27	60
1910	Torts	3	Burdick	337	25	64	9	27
1911	Suretyship	1	Hening	251	11	22	47	126
1912	Insurance	1	Cooley	148	23	74	1	54
1913	Contracts	3	Huffcut	304	6	26	23	131
1915	Torts	1	Hepburn	660	20	33	45	129
1917	Property	1	Bigelow	168	6	17	46	14
1918	Property	1	Brennan	139	14	32	12	21
1919	Property	1	Warren	335	3	9	56	267
1921	Contracts	1	Corbin	595	31	43	38	58
1921	Contracts	1	Costigan	507	20	33	35	62

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1921	Evidence	1	Hughes	516	18	37	28	132
1922	Contracts	2	Williston	409	11	16	44	279
1922	Business	1	Britton	562	38	63	4	22
1924	Equity	1	Keigwin	162	19	27	40	150
1926	Mortgages	1	Campbell	124	8	21	31	29
1926	Equity	1	Cook	376	10	27	33	53
1926	Equity	2	Cressy	72	1	10	28	69
1928	Bankruptcy	1	Britton	130	40	74	3	23
1928	Wills	1	Mechem	193	41	62	15	186
1928	Procedure	2	Keigwin	80	4	6	76	151
1929	Conflicts	2	Humble	146	40	68	8	133
1929	Decedents	2	Costigan	299	16	29	28	61
1930	Contracts	3	Williston	433	10	23	45	280
1931	Family	2	Cooley	126	10	18	19	56
1931	Sales	2	Cooley	115	51	82	9	55
1931	Suretyship	2	Arant	172	29	44	38	4
1935	Partnership	5	Mechem	152	24	34	30	185
1936	Creditors	2	Sturges	247	20	50	22	251
1937	Procedure	1	Sunderland	526	7	16	31	252
1938	Property	1	Roberts	188	36	60	16	220
1938	Property	2	Warren	292	6	11	61	268
1938	Agency	1	Stecher	215	38	71	8	248
1938	Equity	1	Chafee	94	19	29	43	36
1939	Conveyances	1	Martin	118	27	47	24	176

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1940	Restitution	1	Thurston	301	20	35	43	257
1941	Municipal	2	Seasongood	214	79	92	2	234
1942	Agency	3	Mechem	182	37	53	22	183
1942	Suretyship	1	Simpson	153	25	46	27	240
1947	Property	1	DeFuniak	131	28	51	11	77
1947	Wills	3	Mechem	218	15	35	29	187
1947	Decedents	1	Rheinstein	147	8	27	31	219
1948	Corporations	4	Wormser	226	5	22	42	282
1948	Antitrust	1	Oppenheim	49	22	47	6	202
1949	Municipal	1	Fordham	127	65	88	4	95
1949	Insurance	2	Goble	233	15	23	25	106
1949	Property	1	Lewy	125	6	16	41	166
1949	Insurance	1	Goldstein	23	35	70	9	107
1949	Contracts	5	Williston	413	8	22	44	281
1950	Pleading	2	Clark	369	0	0	92	39
1950	Associations	1	Conard	163	25	60	11	49
1951	Associations	1	Latty	95	17	31	23	161
1952	Damages	2	McCormick	175	18	38	19	180
1952	Family	3	Jacobs	176	50	69	10	136
1952	Pleading	1	Blume	172	48	80	10	17
1952	Torts	2	Shulman	252	20	40	25	237
1953	Estates	1	Casner	33	58	88	0	32

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1953	Accounting	2	Amory	42	52	76	0	3
1954	Equity	2	Glenn	204	14	20	50	105
1954	Decedents	1	Turrentine	125	44	61	17	260
1954	Property	3	Taintor	98	6	10	62	254
1954	Contracts	1	Clark	207	13	34	26	40
1954	Agency	4	Mechem	190	9	12	28	184
1954	Property	2	Osborne	164	1	9	51	203
1955	Insurance	3	Patterson	139	19	49	17	204
1956	Conflicts	1	Stumberg	191	16	28	28	250
1957	Criminal	4	Harno	257	11	28	60	122
1957	Torts	2	Smith	407	21	32	25	242
1957	Associations	2	Conard	168	23	43	4	50
1959	Constitution	6	Dowling	129	26	45	22	82
1959	Corporations	3	Baker	143	31	57	13	6
1959	Insurance	2	Goldstein	28	36	54	7	108
1959	Security	3	Hanna	200	31	38	18	121
1961	Estates	2	Leach	156	9	25	50	163
1961	Property	3	Powell	159	16	32	36	210
1962	Torts	3	Smith	342	23	41	24	243
1962	Agency	1	Seavey	189	13	28	30	235
1963	Agency	1	Latty	124	42	51	18	162
1963	Business	7	Lusk	257	72	89	1	174

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1964	Commercial	3	Braucher	187	24	45	11	20
1965	Commercial	1	Farnsworth	146	25	46	17	86
1965	Conflicts	1	Von Mehren	196	19	42	22	265
1967	Legislation	2	Cohen	43	16	47	2	46
1967	Antitrust	1	Blake	139	45	64	9	16
1967	Trusts	4	Bogert	231	6	19	32	18
1968	Evidence	1	Louisell	208	41	62	12	171
1968	Sales	3	Honnold	97	55	70	11	130
1968	Water	1	Sax	17	59	82	12	228
1969	Criminal	1	Weinreb	29	17	41	17	271
1969	Property	2	Casner	207	16	25	41	34
1969	Taxation	3	Hellerstein	71	41	55	0	123
1969	Contracts	2	Dawson	201	6	18	44	76
1969	Criminal	5	Remington	147	53	71	10	218
1969	Restitution	2	Dawson	156	11	29	28	73
1970	Products	1	Keeton	117	74	92	2	149
1970	Contracts	2	Kessler	352	9	22	43	152
1970	Constitution	8	Gunther	154	36	53	16	115
1970	Ethics	2	Thurman	68	43	57	15	256
1970	Family	5	Paulsen	168	77	88	3	205
1971	Copyright	1	Nimmer	127	36	61	13	195
1971	Commercial	1	Countryman	106	84	92	2	64

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1972	Agency	1	Henn	44	34	61	9	127
1972	Injunctions	1	Fiss	100	56	65	11	93
1972	Conflicts	2	Scoles	218	32	55	14	231
1972	Contracts	3	Fuller	214	15	29	48	99
1973	Discrimination	1	Bell	71	90	96	2	10
1973	Estates	1	Westfall	50	72	84	0	273
1973	Decedents	2	Scoles	143	19	31	16	232
1973	Contracts	1	Freedman	158	3	22	47	97
1973	Procedure	3	Louisell	127	40	69	6	170
1974	Land	2	Lefcoe	122	45	84	5	165
1974	Family	2	Clark	110	56	85	2	42
1974	Procedure	2	Chadbourn	157	61	78	4	35
1974	Agency	1	Hynes	46	22	33	30	134
1974	Commercial	2	King	123	46	81	8	153
1974	Corporations	1	Henn	148	43	74	3	128
1974	Creditors	1	Warren	110	67	83	6	269
1974	Discrimination	1	Davidson	75	91	95	4	72
1974	Property	1	Donahue	161	30	44	28	81
1974	Property	1	Rabin	134	78	88	2	213
1974	Criminal	1	Goldstein	175	57	82	5	111
1974	Administrative	1	Robinson	53	62	77	0	221

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1975	Federal	2	Currie	75	36	67	13	71
1975	Public	1	Mashaw	85	72	84	5	177
1975	Contracts	1	Reitz	92	50	72	13	217
1975	Criminal	3	Kadish	278	58	79	4	140
1975	Contracts	1	Whelan	107	40	74	2	277
1975	Discrimination	1	Cooper	34	100	100	0	57
1975	Poverty	1	Berney	189	50	57	2	13
1975	Conflicts	2	Cramton	112	22	49	19	67
1976	Corporations	1	Hamilton	118	42	73	6	118
1976	Commercial	1	Corman	145	88	94	3	59
1976	Corporations	1	Deutsch	87	28	47	17	78
1976	Commercial	3	Farnsworth	95	79	88	4	87
1976	Discrimination	3	Ginsburg	94	100	100	0	130
1976	Torts	6	Prosser	302	44	54	22	211
1976	Ethics	3	Pirsig	51	69	94	0	206
1976	Contracts	2	Murray	218	19	40	25	194
1976	Torts	2	Shulman	226	36	46	30	238
1976	Ethics	1	Morgan	4	100	100	0	190
1976	Procedure	3	Rosenberg	206	39	60	13	223
1976	Contracts	1	Knapp	215	40	61	23	156
1977	Torts	2	Green	303	36	56	28	113
1977	Torts	2	Keeton	251	37	52	24	147

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1977	Taxation	5	Surrey	60	35	60	2	253
1977	Decedents	2	Clark	137	29	44	18	41
1977	Torts	3	Gregory	218	28	39	40	114
1977	Labor	8	Cox	111	34	76	4	66
1977	U.C.C.	1	Epstein	52	94	100	0	85
1977	Contracts	3	Dawson	214	14	28	41	74
1977	Torts	1	Green	118	48	69	18	112
1977	Procedure	2	Carrington	196	54	82	12	30
1977	Contracts	2	Murphy	260	28	50	26	193
1977	Regulation	1	Boise	94	46	61	16	19
1977	Introduction	1	Fischer	22	64	77	5	92
1977	Insurance	2	Keeton	143	47	65	8	146
1977	Associations	2	Conard	190	38	56	9	51
1977	Corporations	2	Frey	172	51	74	6	98
1977	Contracts	2	Mueller	182	29	48	34	192
1977	Government	2	Sato	123	52	79	4	227
1977	Constitution	5	Barrett	206	54	68	13	7
1978	Copyright	3	Kaplan	67	24	40	19	142
1978	Legislation	5	Nutting	103	13	36	26	199
1978	Procedure	4	Field	143	25	41	17	90
1978	Property	1	Cohen	114	33	55	13	47
1978	Conflicts	7	Reese	192	10	30	26	216
1978	Taxation	4	Hellerstein	73	25	53	1	124



YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1978	Commercial	2	Warren	140	77	96	3	270
1978	Decedents	2	Dukeminier	138	50	75	7	83
1978	Contracts	2	MacNeil	134	40	70	17	175
1978	Accounting	4	Thompson	25	28	44	16	255
1978	Contracts	1	Calamari	260	42	58	24	28
1978	Property	4	Cribbet	243	32	48	21	70
1978	Property	1	Chused	92	55	65	18	38
1978	Criminal	1	LaFave	88	74	82	7	157
1979	Corporations	1	Soderquist	118	34	57	16	244
1979	Consumer	1	Spanogle	97	64	88	0	245
1979	Regulation	2	Kitch	136	41	69	11	155
1979	Property	1	Siedel	60	43	65	7	239
1979	Water	3	Trelease	115	36	51	24	259
1979	Estates	4	Casner	46	0	2	26	33
1979	Corporations	5	Jennings	151	48	66	9	137
1979	Criminal	2	Dix	86	67	84	7	79
1979	Property	3	Browder	147	22	39	24	24
1979	Administrative	7	Gelhorn	88	59	70	6	101
1979	Labor	2	Oberer	135	29	68	9	200
1979	Copyright	2	Nimmer	116	31	49	10	196
1979	Communica- tions	3	Gilmore	123	54	72	3	102
1979	Criminal	2	Uviller	307	72	97	1	261
1979	Torts	2	Franklin	107	36	59	20	96

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1980	Contracts	1	Closen	183	100	100	0	45
1980	Products	1	Keeton	126	73	91	2	148
1980	Method	1	Jones	87	8	16	42	139
1980	Taxation	5	Bittker	134	10	33	4	15
1980	Contracts	1	Vernon	152	55	71	18	264
1980	Agency	4	Steffen	190	33	48	27	249
1980	Procedure	3	Cound	170	14	44	14	63
1980	Contracts	3	Farnsworth	156	22	47	27	88
1980	Property	3	Browder	81	10	20	22	25
1980	Water	2	Meyers	56	38	66	13	188
1980	Discrimination	2	Bell	38	55	87	8	11
1980	Products	1	Shapo	105	85	99	0	236
1980	Discrimination	4	Ginsburg	118	96	100	0	104
1980	Criminal	2	Johnson	137	45	69	7	138
1980	Property	1	Goldstein	61	55	84	3	110
1980	Agency	1	Slain	132	42	69	8	241
1980	Contracts	1	McGovern	185	73	88	8	181
1980	Contracts	2	Jackson	229	21	55	19	135
1980	Criminal	1	Saltzburg	86	60	92	0	226
1980	Sales	1	Benfield	95	59	95	3	12
1980	Discrimination	1	Player	103	94	99	0	207
1980	Criminal	1	Cohen	58	47	91	2	48
1980	Corporations	5	Cary	126	27	52	10	31

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1980	Family	3	Clark	124	57	77	1	43
1980	Criminal	3	Weinreb	40	33	55	20	272
1980	Constitution	5	Kauper	140	22	49	26	143
1980	Constitution	10	Gunther	133	30	55	17	116
1980	Constitution	5	Lockhart	136	40	59	15	168
1980	Equity	3	Leavall	167	68	81	3	164
1980	Administrative	2	Robinson	67	79	91	0	222
1980	Government	2	Valente	202	37	79	3	262
1980	Land	2	Hagman	176	82	94	2	117
1980	Criminal	5	Kamisar	86	56	93	1	141
1981	Procedure	1	Landers	129	61	79	5	158
1981	Commercial	3	King	181	54	87	4	154
1981	Commercial	3	Speidel	135	54	85	6	246
1981	Conflicts	3	Cramton	103	20	43	19	68
1981	Administrative	1	Rothschild	145	85	92	1	224
1981	Contracts	4	Fuller	190	25	45	34	100
1981	Decedents	3	Scoles	148	9	26	25	233
1981	Taxation	1	Dodge	50	36	80	0	80
1981	Property	1	Dukeminier	137	47	66	14	84
1981	Criminal	2	Vorenberg	150	35	72	8	266
1981	Administrative	2	Linde	61	59	80	6	167

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1981	Patents	2	Choate	321	22	49	20	37
1981	Copyright	2	Goldstein	82	40	67	10	109
1981	Copyright	1	Latman	61	46	66	10	160
1981	Ethics	2	Morgan	11	82	100	0	191
1981	Evidence	3	Cleary	217	23	53	15	44
1981	Evidence	5	McCormick	234	19	43	28	179
1981	Antitrust	2	Posner	124	27	56	18	209
1981	Antitrust	4	Oppenheim	89	30	62	9	202
1981	Antitrust	3	Areeda	111	14	47	17	5
1981	Constitution	5	Lockhart	111	39	60	15	169
1981	Constitution	1	Rotunda	191	48	68	14	225
1981	Constitution	6	Barrett	202	61	77	9	8
1981	Torts	2	Henderson	169	24	57	22	125
1981	Corporations	2	Hamilton	118	29	60	7	119
1981	Criminal	1	Foote	69	52	70	20	94
1981	Negotiable	1	Whaley	49	51	94	6	275
1981	Evidence	4	Louisell	127	36	54	12	172
1982	Commercial	1	Whaley	39	62	97	3	276
1982	Sales	1	Nordstrom	63	68	89	8	198
1982	Commercial	1	Schwartz	130	70	96	1	230
1982	Commercial	2	Countryman	131	45	92	2	65

YEAR	SUBJECT	ED.	AUTHOR	NUMBER OF CASES	PERCENT RECENT	PERCENT UNDER 20 Yrs.	PERCENT OVER 50 Yrs.	TABLE II REFERENCE NO.
1982	Federal	7	McCormick	147	37	63	16	178
1982	Criminal	1	Low	69	41	62	16	173
1982	Criminal	2	Miller	98	66	96	0	189
1982	Property	2	Rabin	144	42	83	5	214
1982	Contracts	4	Dawson	184	17	36	44	75
1982	Products	2	Noel	220	63	91	1	197
1982	Estates	2	Westfall	40	50	85	0	274
1982	Contracts	1	Fessler	158	20	44	39	89
1982	Associations	3	Conard	202	32	56	14	52
1982	Torts	1	Posner	205	22	33	46	208
1982	Remedies	1	Re	310	45	59	31	215
1982	Administrative	2	Schwartz	105	49	67	4	230
1982	Conflicts	2	Vernon	115	52	70	8	263
1982	Torts	7	Prosser	297	39	59	24	212

## TABLE II

1. AMES, A SELECTION OF CASES ON PLEADING AT COMMON LAW (John Wilson & Son, 1875).
2. AMES, A SELECTION OF CASES ON THE LAW OF TORT (2d ed., Riverside Press, Vol. I, 1893).
3. AMORY & HARDEE, MATERIALS ON ACCOUNTING (2d ed., Foundation, 1953).
4. ARANT, CASES ON THE LAW OF SURETYSHIP AND GUARANTY (2d ed., Callaghan, 1931).
5. AREEDA, ANTITRUST ANALYSIS—PROBLEMS, TEXT, CASES (3d ed., Little, Brown, 1981).
6. BAKER & CARY, CASES AND MATERIALS ON CORPORATIONS (3d ed., Foundation, 1939).
7. BARRETT, CONSTITUTIONAL LAW—CASES AND MATERIALS (5th ed., Foundation, 1977).
8. BARRETT & COHEN, CONSTITUTIONAL LAW—CASES AND MATERIALS (6th ed., Foundation, 1981).
9. BEALE, A SELECTION OF CASES AND OTHER AUTHORITIES UPON CRIMINAL LAW (Harvard Law Review Publishing, 1894).
10. BELL, RACE, RACISM, AND AMERICAN LAW (Little Brown, 1973).
11. BELL, RACE, RACISM AND AMERICAN LAW (2d ed., Little, Brown, 1980).
12. BENFIELD & HAWKLAND, CASES AND MATERIALS ON SALES (Foundation, 1980).
13. BERNEY, GOLDBERG, DOOLEY, & CARROL, LEGAL PROBLEMS OF THE POOR (Little, Brown, 1975).
14. BIGELOW, PERSONAL PROPERTY (West, 1917).
15. BITTKER & STONE, FEDERAL INCOME TAXATION (5th ed., Little, Brown, 1980).
16. BLAKE & PITOSKY, CASES AND MATERIALS ON ANTITRUST LAW (Foundation, 1967).
17. BLUME & REED, PLEADING AND JOINDER—CASES AND STATUTES (Prentice-Hall, 1952).
18. BOGERT & OAKES, CASES ON THE LAW OF TRUSTS (4th ed., Foundation, 1967).
19. BOIES & VERKUIL, PUBLIC CONTROL OF BUSINESS—CASES, NOTES AND QUESTIONS (Little, Brown, 1977).
20. BRAUCHER, COMMERCIAL TRANSACTION TEXT—CASES AND PROBLEMS (3d ed., Foundation, 1964).
21. BRENNAN, CASES ON THE LAW OF PERSONAL PROPERTY (Callaghan, 1918).

22. BRITTON & BAUER, *CASES ON BUSINESS LAW* (West, 1922).
23. BRITTON, *CASES ON THE LAW OF BANKRUPTCY* (West, 1928).
24. BROWDER, CUNNINGHAM, JULIN, & SMITH, *BASIC PROPERTY LAW* (3d ed., West, 1979).
25. BROWDER & WAGGONER, *FAMILY PROPERTY TRANSACTIONS—FUTURE INTERESTS* (3d ed., Michie, 1980).
26. BUNKER, *CASES ON GUARANTY AND SURETYSHIP* (George Wahr, 1902).
27. BURDICK, *CASES ON TORTS* (3d ed., Bank and Co., 1910).
28. CALAMARI & PERILLO, *CASES AND PROBLEMS ON CONTRACTS* (West, 1978).
29. CAMPBELL, *CASES ON MORTGAGES OF REAL PROPERTY* (Langdell Hall, 1926).
30. CARRINGTON & BABCOCK, *CIVIL PRODEDURE—CASES AND COMMENTS ON THE PROCESS OF ADJUDICATION* (2d ed., Little, Brown, 1977).
31. CARY & EISENBERG, *CASES AND MATERIALS ON CORPORATIONS* (5th ed., Foundation, 1980).
32. CASNER, *ESTATE PLANNING: CASES, STATUTES, TEXT, AND OTHER MATERIALS* (Little, Brown, 1953).
33. CASNER, *ESTATE PLANNING* (4th ed., Little, Brown, 1979).
34. CASNER & LEACH, *CASES AND TEXT ON PROPERTY* (2d ed., Little, Brown, 1969).
35. CHADBOURN, LEVIN, & SHUCHMAN, *CASES AND MATERIALS ON CIVIL PROCEDURE* (2d ed., Foundation, 1974).
36. CHAFEE, *CASES ON EQUITABLE REMEDIES* (Langdell Hall, 1938).
37. CHOATE & FRANCIS, *CASES AND MATERIALS ON PATENT LAW* (2d ed., West, 1981).
38. CHUSED, *A MODERN APPROACH TO PROPERTY* (West, 1978).
39. CLARK, *CASES ON COMMON LAW PLEADING* (2d ed., Eldon Law Book, 1950).
40. CLARK, *CASES ON CONTRACTS* (Bobbs-Merrill, 1954).
41. CLARK, LUSKY, & MURPHY, *CASES AND MATERIALS ON GRATUITOUS TRANSFERS—WILLS, INTESTATE SUCCESSION, TRUSTS, GIFTS, AND FUTURE INTERESTS* (2d ed., West, 1977).
42. CLARK, *CASES AND PROBLEMS ON DOMESTIC RELATIONS* (2d ed., West, 1974).
43. CLARK, *CASES AND PROBLEMS ON DOMESTIC RELATIONS* (3d ed., West, 1980).
44. CLEARY & STRONG, *EVIDENCE—CASES, MATERIALS, PROBLEMS* (3d ed., West, 1981).

45. CLOSEN, FERBER, PERLMUTTER, & WITTENBERG, *CONTRACTS: CONTEMPORARY CASES AND MATERIALS* (Callaghan, 1980).

46. COHEN, *MATERIALS AND PROBLEMS ON LEGISLATION* (2d ed., Bobbs-Merrill, 1967).

47. COHEN, *MATERIALS FOR A BASIC COURSE IN PROPERTY* (West, 1978).

48. COHEN, *THE LAW OF DEPRIVATION OF LIBERTY: A STUDY IN SOCIAL CONTROL—CASES AND MATERIALS* (West, 1980).

49. CONARD, *CASES ON THE LAW OF BUSINESS ORGANIZATION* (Foundation, 1950).

50. CONARD, *CASES AND MATERIALS ON THE LAW OF BUSINESS ORGANIZATION* (2d ed., Foundation, 1957).

51. CONARD, KNAUSS, & SIEGEL, *ENTERPRISE ORGANIZATION* (2d ed., Foundation, 1977).

52. CONARD, KNAUSS, & SIEGEL, *ENTERPRISE ORGANIZATION—CASES, STATUTES, AND ANALYSIS ON LICENSING, EMPLOYMENT, AGENCY, PARTERSHIPS, ASSOCIATION, AND CORPORATION* (3d ed., Foundation, 1982).

53. COOK, *CASES AND OTHER AUTHORITIES ON EQUITY* (West, 1926).

54. COOLEY, *ILLUSTRATIVE CASES ON INSURANCE* (West, 1912).

55. COOLEY, *ILLUSTRATIVE CASES ON THE LAW OF SALES* (2d ed., West, 1931).

56. COOLEY & MADDEN, *ILLUSTRATIVE CASES ON PERSONS AND DOMESTIC RELATIONS* (2d ed., West, 1931).

57. COOPER, RABB, & RUBIN, *FAIR EMPLOYMENT LITIGATION—TEXT AND MATERIALS FOR STUDENT AND PRACTITIONER* (West, 1975).

58. CORBIN, *CASES ON CONTRACTS* (West, 1921).

59. CORMAN, *COMMERCIAL LAW—CASES AND MATERIALS* (Little, Brown, 1976).

60. COSTIGAN, *WILLS, DESCENT, AND ADMINISTRATION* (West, 1910).

61. COSTIGAN, *WILLS, DESCENT, AND ADMINISTRATION* (2d ed., West, 1929).

62. COSTIGAN, *CASES ON THE LAW OF CONTRACTS* (Callaghan, 1921).

63. COUND, FRIEDENTHAL, & MILLER, *CIVIL PROCEDURE* (3d ed., West, 1980).

64. COUNTRYMAN & KAUFMAN, *COMMERCIAL LAW—CASES AND MATERIALS* (Little, Brown, 1971).

65. COUNTRYMAN, KAUFMAN, & WISEMAN, *COMMERCIAL*



LAW—CASES AND MATERIALS (2d ed., Little, Brown, 1982).

66. COX, BOK, & GORMAN, *CASES AND MATERIALS ON LABOR LAW* (8th ed., Foundation, 1977).

67. CRAMTON, CURRIE, & KAY, *CONFLICTS OF LAW—CASES, COMMENTS, QUESTIONS* (2d ed., West, 1975).

68. CRAMTON, CURRIE, & KAY, *CONFLICTS OF LAW—CASES, COMMENTS, QUESTIONS* (3d ed., West, 1981).

69. CRESSY, *ILLINOIS CASES ON EQUITY JURISPRUDENCE* (Revised Edition, John Marshall, 1926).

70. CRIBBET & JOHNSON, *CASES AND MATERIALS ON PROPERTY* (4th ed., Foundation, 1978).

71. CURRIE, *FEDERAL COURTS—CASES AND MATERIALS* (2d ed., West, 1975).

72. DAVIDSON, GINSBURG, & KAY, *TEXT, CASES AND MATERIALS ON SEX-BASED DISCRIMINATION* (West, 1974).

73. DAWSON & HARVEY, *CASES ON CONTRACTS AND CONTRACT REMEDIES* (2d ed., Foundation, 1969).

74. DAWSON & HARVEY, *CASES AND COMMENTS ON CONTRACTS* (3d ed., Foundation, 1977).

75. DAWSON, HARVEY, & HENDERSON, *CASES AND COMMENTS ON CONTRACTS* (4th ed., Foundation, 1982).

76. DAWSON & PALMER, *CASES ON RESTITUTION* (2d ed., Bobbs-Merrill, 1969).

77. DEFUNIAK, *CASES AND MATERIALS ON COMMUNITY PROPERTY* (Bobbs-Merrill, 1969).

78. DEUTSCH & BIANCO, *THE LAW OF CORPORATIONS* (Foundation, 1976).

79. DIX & SHARLOT, *CRIMINAL LAW—CASES AND MATERIALS* (2d ed., West, 1979).

80. DODGE, *FEDERAL TAXATION OF ESTATES, TRUSTS, AND GIFTS—PRINCIPLES AND PLANNING* (West, 1981).

81. DONAHUE, KAUPER, & MARTIN, *CASES AND MATERIALS ON PROPERTY: AN INTRODUCTION TO THE CONCEPT AND THE INSTITUTION* (West, 1974).

82. DOWLING, *CASES ON CONSTITUTIONAL LAW* (6th ed., Foundation, 1959).

83. DUKEMINIER & JOHANSON, *FAMILY WEALTH TRANSACTIONS—WILLS, TRUSTS, AND ESTATES* (2d ed., Little, Brown, 1978).

84. DUKEMINIER & KRIER, *PROPERTY* (Little, Brown, 1981).

85. EPSTEIN & MARTIN, *BASIC UNIFORM COMMERCIAL CODE TEACHING MATERIALS* (West, 1977).

86. FARNSWORTH & HONNOLD, *CASES AND MATERIALS ON COM-*

MERCIAL LAW (Foundation, 1965).

87. FARNSWORTH & HONNOLD, *CASES AND MATERIALS ON COMMERCIAL LAW* (3d ed., Foundation, 1976).

88. FARNSWORTH & YOUNG, *CASES AND MATERIALS ON CONTRACTS* (3d ed., Foundation, 1980).

89. FESSLER & LOISEAUX, *CONTRACTS: MORALITY, ECONOMICS, AND THE MARKETPLACE—CASES AND MATERIALS* (West, 1982).

90. FIELD, KAPLAN, & CLERMONT, *MATERIALS FOR A BASIC COURSE IN CIVIL PROCEDURE* (4th ed., Foundation, 1978).

91. FINCH, *SELECTED CASES ON THE LAW OF PROPERTY IN LAND* (2d ed., Baker, Voorhir, 1904).

92. FISCHER & ZEHNLE, *INTRODUCTION TO LAW AND LEGAL REASONING* (West, 1977).

93. FISS, *INJUNCTIONS* (Foundation, 1972).

94. FOOTE & LEVY, *CRIMINAL LAW—CASES AND MATERIALS* (Little, Brown, 1981).

95. FORDHAM, *LOCAL GOVERNMENT LAW—TEXT, CASES, AND OTHER MATERIALS* (Foundation, 1949).

96. FRANKLIN, *CASES AND MATERIALS ON TORT LAW AND ALTERNATIVES* (2d ed., Foundation, 1979).

97. FREEDMAN, *CASES AND MATERIALS ON CONTRACTS* (West, 1973).

98. FREY, CHOPER, LEECH, & MORRIS, *CASES AND MATERIALS ON CORPORATIONS* (2d ed., Little, Brown, 1977).

99. FULLER & EISENBERG, *BASIC CONTRACT LAW* (3d ed., West, 1972).

100. FULLER & EISENBERG, *BASIC CONTRACT LAW* (4th ed., West, 1981).

101. GELLHORN, BYSE, & STRAUSS, *ADMINISTRATIVE LAW—CASES AND COMMENTS* (7th ed., Foundation, 1979).

102. GILLMOR & BARRON, *MASS COMMUNICATION LAW—CASES AND COMMENT* (3d ed., West, 1979).

103. GINSBURG, *CASES AND MATERIALS ON EQUAL EMPLOYMENT* (3d ed., George Washington U. Press, 1976).

104. GINSBURG & GALLOWAY, *CASES AND MATERIALS ON EQUAL EMPLOYMENT LAW* (4th ed., George Washington U. Press, 1980).

105. GLENN & REDDEN, *CASES AND MATERIALS ON EQUITY* (2d ed., Michie, 1954).

106. GOBLE, *CASES AND OTHER MATERIALS ON THE LAW OF INSURANCE* (2d ed., Bobbs-Merrill, 1949).

107. GOLDSTEIN, *CASES ON INSURANCE* (John Marshall, 1949).

108. GOLDSTEIN, *CASES ON INSURANCE* (2d ed., John Marshall,

1959).

109. GOLDSTEIN, COPYRIGHT, PATENT, TRADEMARK, AND RELATED STATE DOCTRINES: CASES AND MATERIALS ON THE LAW OF INTELLECTUAL PROPERTY (2d ed., Foundation, 1981).

110. GOLDSTEIN, REAL ESTATE TRANSACTIONS (Foundation, 1980).

111. GOLDSTEIN & ORLAND, CRIMINAL PROCEDURE—CASES AND MATERIALS ON THE ADMINISTRATION OF CRIMINAL LAW (Little, Brown, 1974).

112. GREEN, PEDRICK, RAHL, THODE, HAWKINS, SMITH, AND TREECE, ADVANCED TORTS: INJURIES TO BUSINESS, POLITICAL, AND FAMILY INTERESTS (West, 1977).

113. GREEN, PEDRICK, RAHL, THODE, HAWKINS, SMITH & TREECE, TORTS—CASES AND MATERIALS (2d ed., West, 1977).

114. GREGORY, KALVEN, & EPSTEIN, CASES AND MATERIALS ON TORTS (3d ed., Little, Brown, 1977).

115. GUNTHER & DOWLING, CASES AND MATERIALS ON CONSTITUTIONAL LAW (8th ed., Foundation, 1970).

116. GUNTHER, CASES AND MATERIALS ON CONSTITUTIONAL LAW (10th ed., Foundation, 1980).

117. HAGMAN, PUBLIC PLANNING AND CONTROL OF URBAN AND LAND DEVELOPMENT CASES AND MATERIALS (2d ed., West, 1980).

118. HAMILTON, CASES AND MATERIALS ON CORPORATIONS—INCLUDING PARTNERSHIPS AND LIMITED PARTNERSHIPS (West, 1976).

119. HAMILTON, CASES AND MATERIALS ON CORPORATIONS—INCLUDING PARTNERSHIPS AND LIMITED PARTNERSHIPS (2d ed., West, 1981).

120. HAMLIN, COPYRIGHT CASES (G.P. Putman's Sons, 1904).

121. HANNA, CASES AND MATERIALS ON SECURITY (3d ed., Foundation, 1959).

122. HARNO, CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE (4th ed., Callaghan, 1957).

123. HELLERSTEIN, STATE AND LOCAL TAXATION—CASES AND MATERIALS (3d ed., West, 1969).

124. HELLERSTEIN & HELLERSTEIN, STATE AND LOCAL TAXATION—CASES AND MATERIALS (4th ed., West, 1978).

125. HENDERSON & PEARSON, THE TORTS PROCESS (2d ed., Little, Brown, 1981).

126. HENING, CASES ON THE LAW OF SURETYSHIP (West, 1911).

127. HENN, AGENCY, PARTNERSHIP AND OTHER UNINCORPORATED BUSINESS ENTERPRISES (West, 1972).

128. HENN, CASES AND MATERIALS ON THE LAW OF CORPORATIONS (West, 1974).

129. HEPBURN, CASES ON TORTS (West 1915).

130. HONNOLD, CASES AND MATERIALS ON THE LAW OF SALES AND SALES FINANCING (3d ed., Foundation, 1968).

131. HUFFCUT & WOODRUFF, SELECTED CASES ON THE LAW OF CONTRACTS (3d ed., Banks & Co., 1913).

132. HUGHES, CASES ON THE LAW OF EVIDENCE (Callaghan, 1921).

133. HUMBLE, CASES ON CONFLICTS OF LAW (2d ed., Callaghan, 1929).

134. HYNES, AGENCY AND PARTNERSHIP—CASES, MATERIALS, AND PROBLEMS (Bobbs-Merrill, 1974).

135. JACKSON & BOLLINGER, CONTRACT LAW IN MODERN SOCIETY—CASES AND MATERIALS (2d ed., West, 1980).

136. JACOBS & GOEBEL, CASES AND OTHER MATERIALS ON DOMESTIC RELATIONS (3d ed., Foundation, 1952).

137. JENNINGS & BUXBAUM, CORPORATIONS—CASES AND MATERIALS (5th ed., West, 1979).

138. JOHNSON, CRIMINAL LAW—SUBSTANTIVE CRIMINAL LAW IN ITS PROCEDURAL CONTEXT (2d ed., West, 1980).

139. JONES, KERNOCHAN, & MURPHY, LEGAL METHOD (Foundation 1980 ).

140. KADISH & PAULSEN, CRIMINAL LAW AND ITS PROCESSES—CASES AND MATERIALS (3d ed., Little, Brown, 1975).

141. KAMISAR, LA FAVE, & ISRAEL, MODERN CRIMINAL PROCEDURE (5th ed., West, 1980).

142. KAPLAN & BROWN, CASES ON COPYRIGHT (3d ed., Foundation, 1978).

143. KAUPER & BEYTAGH, CONSTITUTIONAL LAW—CASES AND MATERIALS (5th ed., Little, Brown, 1980).

144. KEEN, CASES ON PLEADING (West, 1905).

145. KEENER, A SELECTION OF CASES ON THE LAW OF QUASI-CONTRACT (Baker, Voorhis, & Company, 2 Volumes, 1888).

146. KEETON, CASES AND MATERIALS ON BASIC INSURANCE LAW (2d ed., West, 1977).

147. KEETON & KEETON, CASES AND MATERIALS ON THE LAW OF TORTS (2d ed., West, 1977).

148. KEETON, OWEN, & MONTGOMERY, PRODUCTS LIABILITY AND SAFETY CASES AND MATERIALS (Foundation, 1980).

149. KEETON & SHAPO, PRODUCTS AND THE CONSUMER: DEFECTIVE AND DANGEROUS PRODUCTS (Foundation, 1970).

150. KEIGWIN, *CASES IN EQUITY PLEADING* (Lawyers Co.-Op., 1924).
151. KEIGWIN, *CASES ON COMMON LAW ACTIONS* (2d ed., Lawyers Co.-Op., 1928).
152. KESSLER & GILMORE, *CONTRACTS—CASES AND MATERIALS* (2d ed., Little, Brown, 1970).
153. KING, KUENZEL, & LAUER, *CASES AND MATERIALS ON COMMERCIAL TRANSACTION UNDER THE UNIFORM COMMERCIAL CODE* (2d ed., Matthew Bender, 1974).
154. KING, KUENZEL, LAUER, LITTLEFIELD, & STONE, *COMMERCIAL TRANSACTIONS UNDER THE UNIFORM COMMERCIAL CODE—CASES AND MATERIALS* (3d ed., Matthew Bender, 1981).
155. KITCH & PERLMAN, *LEGAL REGULATION OF THE COMPETITIVE PROCESS* (2d ed., Foundation, 1979).
156. KNAPP, *PROBLEMS IN CONTRACT LAW—CASES AND MATERIALS* (Little, Brown, 1976).
157. LA FAVE, *PRINCIPLES OF CRIMINAL LAW—CASES, COMMENTS, AND QUESTIONS* (West, 1978).
158. LANDERS & MARTIN, *CIVIL PROCEDURE* (Little, Brown, 1981).
159. LANGDELL, *CASES ON CONTRACTS* (2d ed., University, 1897).
160. LATMAND & GORMAN, *COPYRIGHT FOR THE EIGHTIES—CASES AND MATERIALS* (Michie, 1981).
161. LATTY, *INTRODUCTION TO BUSINESS ASSOCIATIONS: CASES AND MATERIALS* (Prentice-Hall, 1951).
162. LATTY & FRAMPTON, *BASIC BUSINESS ASSOCIATIONS—CASES, TEXT, AND PROBLEMS* (Little, Brown, 1963).
163. LEACH & LOGAN, *CASES AND TEXT ON FUTURE INTERESTS AND ESTATE PLANNING* (2d ed., Foundation, 1961).
164. LEAVELL, LOVE, & NELSON, *CASES AND MATERIALS* (2d ed., Bobbs-Merrill, 1974).
165. LEFCOE, *LAND DEVELOPMENT CASES AND MATERIALS* (2d ed., Bobbs-Merrill, 1974).
166. LEWY, *CASES ON REAL PROPERTY* (Current Publishing, 1949).
167. LINDE, BUNN, PAFF, & CHURCH, *LEGISLATIVE AND ADMINISTRATIVE PROCESSES* (2d ed., Foundation, 1981).
168. LOCKHART, KAMISAR, & CHOPER, *CONSTITUTIONAL LAW—CASES, COMMENTS, QUESTIONS* (5th ed., West, 1980).
169. LOCKHART, KAMISAR, & CHOPER, *THE AMERICAN CONSTITUTION—CASES, COMMENTS, QUESTIONS* (5th ed., West, 1981).
170. LOUISELL & HAZARD, *CASES AND MATERIALS ON PLEADING*

AND PROCEDURE, STATE AND FEDERAL (3d ed., Foundation, 1973).

171. LOUISELL, KAPLAN, & WALTZ, CASES AND MATERIALS ON EVIDENCE (Foundation, 1968).

172. LOUISELL, KAPLAN, & WALTZ, CASES AND MATERIALS ON EVIDENCE (4th ed., Foundation, 1981).

173. LOW, JEFFRIES, & BONNIE, CRIMINAL LAW: CASES AND MATERIALS (Foundation, 1982).

174. LUSK, BUSINESS LAW: PRINCIPLES AND CASES (7th ed., Richard D. Irwin, Inc., 1963).

175. MACNEIL, CONTRACTS—EXCHANGE TRANSACTIONS AND RELATIONS—CASES AND MATERIALS (2d ed., Foundation, 1978).

176. MARTIN, CASES AND OTHER MATERIALS ON THE LAW OF CONVEYANCES (Callaghan, 1939).

177. MASHAW & MERRILL, INTRODUCTION TO THE AMERICAN PUBLIC LAW SYSTEM—CASES AND MATERIALS (West, 1975).

178. MCCORMICK, CHADBOURN, & WRIGHT, CASES AND MATERIALS ON FEDERAL COURTS (7th ed., Foundation, 1982).

179. MCCORMICK, ELLIOT, & SUTTON, CASES AND MATERIALS ON EVIDENCE (5th ed., West, 1981).

180. MCCORMICK & FRITZ, CASES AND MATERIALS ON DAMAGES (2d ed., Foundation, 1952).

181. MCGOVERN, CASES, STATUTES, AND READINGS ON THE LAW OF CONTRACTS (Bobbs-Merrill, 1980).

182. MECHEM, CASES ON THE LAW OF AGENCY (Callaghan, 1893).

183. MECHEM, SELECTED CASES ON THE LAW OF AGENCY (3d ed., Callaghan, 1942).

184. MECHEM, SELECTED CASES ON THE LAW OF AGENCY (4th ed., Callaghan, 1954).

185. MECHEM, CASES ON THE LAW OF PARTNERSHIP (5th ed., Callaghan, 1935).

186. MECHEM & ATKINSON, CASES AND OTHER MATERIALS ON THE LAW OF WILLS AND ADMINISTRATION (Lawyers Co.-Op., 1928).

187. MECHEM & ATKINSON, CASES AND OTHER MATERIALS ON THE LAW OF WILLS AND ADMINISTRATION (3d ed., Foundation, 1947).

188. MEYERS & TARLOCK, WATER RESOURCE MANAGEMENT (2d ed., Foundation 1980).

189. MILLER, DAWSON, DIX, & PARNAS, CRIMINAL JUSTICE ADMINISTRATION—CASES AND MATERIALS (2d ed., Foundation, 1982).

190. MORGAN & ROTUNDA, PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (2d ed., Foundation, 1981).

191. MORGAN & ROTUNDA, PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (2d ed., Foundation, 1981).

192. MUELLER & ROSETT, *CONTRACT LAW AND ITS APPLICATION* (2d ed., Foundation, 1977).

193. MURPHY & SPEIDEL, *STUDIES IN CONTRACT LAW* (2d ed., Foundation, 1977).

194. MURRAY, *CASES AND MATERIALS ON CONTRACTS* (2d ed., Bobbs-Merrill, 1976).

195. NIMMER, *CASES AND MATERIALS ON COPYRIGHT* (West, 1971).

196. NIMMER, *CASES AND MATERIALS ON COPYRIGHT AND OTHER ASPECTS OF LAW PERTAINING TO LITERARY, MUSICAL, AND ARTISTIC WORKS—ILLUSTRATED* (2d ed., West, 1979).

197. NOEL & PHILLIPS, *PRODUCTS LIABILITY CASES AND MATERIALS* (2d ed., West, 1982).

198. NORDSTROM, MURRY, & CLOVIS, *PROBLEMS AND MATERIALS ON SALES* (West, 1982).

199. NUTTING & DICKERSON, *CASES AND MATERIALS ON LEGISLATION* (5th ed., West, 1978).

200. OBERER, HANSLOWE, & ANDERSON, *CASES AND MATERIALS ON LABOR LAW* (2d ed., West, 1979).

201. OPPENHEIM, *CASES ON FEDERAL ANTITRUST LAWS* (West, 1948).

202. OPPENHEIM, WESTON, & MCCARTHY, *FEDERAL ANTITRUST LAWS—CASES, TEXT, AND COMMENTARY* (4th ed., West, 1981).

203. OSBORNE, *CASES AND MATERIALS ON PROPERTY SECURITY* (2d ed., West, 1954).

204. PATTERSON, *CASES AND MATERIALS ON THE LAW OF INSURANCE* (3d ed., Foundation, 1955).

205. PAULSEN, WADLINGTON, & GOEBEL, *CASES AND OTHER MATERIAL ON DOMESTIC RELATIONS* (5th ed., Foundation, 1970).

206. PIRSIG & KIRWIN, *CASES AND MATERIALS ON PROFESSIONAL RESPONSIBILITY* (3d ed., West, 1976).

207. PLAYER, *EMPLOYMENT DISCRIMINATION LAW—CASES AND MATERIALS* (West, 1980).

208. POSNER, *TORT LAW—CASES AND ECONOMIC ANALYSIS* (Little, Brown, 1982).

209. POSNER & EASTERBROOK, *ANTITRUST CASES, ECONOMIC NOTES AND OTHER MATERIALS* (2d ed., West, 1981).

210. POWELL, *CASES ON FUTURE INTERESTS* (3d ed., West, 1961).

211. PROSSER, WADE, & SCHWARTZ, *CASES AND MATERIALS ON TORTS* (6th ed., Foundation, 1976).

212. PROSSER, WADE & SCHWARTZ, *CASES AND MATERIALS ON TORTS* (7th ed., Foundation, 1982).

213. RABIN, FUNDAMENTALS OF MODERN REAL PROPERTY LAW (Foundation, 1974).

214. RABIN, FUNDAMENTALS OF MODERN REAL PROPERTY LAW (2d ed., Foundation, 1982).

215. RE, REMEDIES—CASES AND MATERIALS (Foundation, 1982).

216. REESE & ROSENBERG, CASES AND MATERIALS ON CONFLICTS OF LAW (7th ed., Foundation 1978).

217. REITZ, CASES AND MATERIALS ON CONTRACTS AND BASIC COMMERCIAL LAW (West, 1975).

218. REMINGTON, CASES AND MATERIALS ON CRIMINAL LAW AND ITS PROCEDURE (5th ed., Callaghan, 1969).

219. RHEINSTEIN, CASES AND OTHER MATERIALS ON THE LAW OF DECEDENTS' ESTATES (Bobbs-Merrill, 1947).

220. ROBERTS, CASES ON PERSONAL PROPERTY (Callaghan, 1938).

221. ROBINSON & GELLHORN, THE ADMINISTRATIVE PROCESS (West, 1974).

222. ROBINSON, GELLHORN, & BRUFF, THE ADMINISTRATIVE PROCESS (2d ed., West, 1980).

223. ROSENBERG, WEINSTEIN, SMIT, & KORN, ELEMENTS OF CIVIL PROCEDURE—CASES AND MATERIALS (3d ed., Foundation, 1976).

224. ROTHSCHILD & KOCH, FUNDAMENTALS OF ADMINISTRATIVE PRACTICE AND PROCEDURE—CASES AND MATERIALS (Michie, 1981).

225. ROTUNDA, MODERN CONSTITUTIONAL LAW—CASES AND NOTES (West, 1981).

226. SALTZBURG, AMERICAN CRIMINAL PROCEDURE—CASES AND MATERIALS (West, 1980).

227. SATO & VAN ALSTYNE, STATE AND LOCAL GOVERNMENT LAW (2d ed., Little, Brown, 1977).

228. SAX, WATER LAW, PLANNING, AND POLICY—CASES AND MATERIALS (Bobbs-Merrill, 1968).

229. SCHWARTZ, ADMINISTRATIVE LAW—A CASEBOOK (Little, Brown, 1982).

230. SCHWARTZ & SCOTT, COMMERCIAL TRANSACTIONS—PRINCIPLES AND POLICIES (Foundation, 1982).

231. SCOLES & WEINTRAUB, CASES AND MATERIALS ON CONFLICTS OF LAW (2d ed., West, 1972).

232. SCOLES & HALBACH, PROBLEMS AND MATERIALS ON DECEDENTS' ESTATES, AND TRUSTS (2d ed., Little, Brown, 1973).

233. SCOLES & HALBACH, PROBLEMS AND MATERIALS ON DECEDENTS' ESTATES AND TRUSTS (3d ed., Little, Brown, 1981).

234. SEASONGOOD, CASES ON MUNICIPAL CORPORATIONS (2d ed., Callaghan, 1941).



235. SEAVEY, REUSCHLEIN, & HALL, *CASES ON AGENCY AND PARTNERSHIP* (West, 1962).
236. SHAPO, *PRODUCTS LIABILITY CASES AND MATERIALS* (Foundation, 1980).
237. SHULMAN & JAMES, *CASES AND MATERIALS ON THE LAW OF TORTS* (2d ed., Foundation, 1952).
238. SHULMAN, JAMES & GRAY, *CASES AND MATERIALS ON THE LAW OF TORTS* (3d ed., Foundation, 1976).
239. SIEDEL, *REAL ESTATE LAW* (West, 1979).
240. SIMPSON, *CASES AND MATERIALS ON THE LAW OF SURETYSHIP* (West, 1942).
241. SLAIN, THOMPSON, & BEIN, *AGENCY, PARTNERSHIP, AND EMPLOYMENT—A TRANSACTIONAL APPROACH* (Matthew Bender, 1980).
242. SMITH & PROSSER, *CASES AND MATERIALS ON TORTS* (2d ed., Foundation, 1957).
243. SMITH & PROSSER, *CASES AND MATERIALS ON TORTS* (3d ed., Foundation, 1962).
244. SODERQUIEST, *CORPORATIONS: A PROBLEM APPROACH* (Bobbs-Merrill, 1979).
245. SPANOGLE & ROHNER, *CONSUMER LAW—CASES AND MATERIALS* (West, 1979).
246. SPEIDEL, SUMMERS, & WHITE, *TEACHING MATERIALS ON COMMERCIAL AND CONSUMER LAW* (3d ed., West, 1981).
247. STEARNS, *ANNOTATED CASES ON THE LAW OF SURETYSHIP* (Anderson, 1907).
248. STECHER, *CASES ON THE LAW OF AGENCY AND PARTNERSHIP* (Lawyers Co.-Op., 1938).
249. STEEFEN & KERR, *CASES AND MATERIALS ON AGENCY—PARTNERSHIP* (4th ed., West, 1980).
250. STUMBERG, *CASES ON THE CONFLICTS OF LAW* (West, 1956).
251. STURGES, *CASES AND MATERIALS ON THE LAW OF CREDIT TRANSACTIONS* (2d ed., West, 1936).
252. SUNDERLAND, *CASES AND MATERIALS ON JUDICIAL ADMINISTRATION* (Callaghan, 1937).
253. SURREY, WARREN, MCDANIEL, & GUTMAN, *FEDERAL WEALTH TRANSFER TAXATION—CASES AND MATERIALS* (5th ed., Foundation, 1977).
254. TAINTOR, *CASES AND READINGS ON PERSONAL PROPERTY* (3d ed., Foundation, 1954).
255. THOMPSON, WHITMAN, PHILLIPS, & WARREN, *ACCOUNTING AND THE LAW* (4th ed., Foundation, 1978).
256. THURMAN, PHILLIPS, & CHEATHAN, *CASES AND MATERIALS*

ON THE LEGAL PROFESSION (2d ed., Foundation, 1970).

257. THURSTON, CASES ON RESTITUTION (West, 1940).

258. TIEDEMAN, SELECTED CASES ON REAL PROPERTY (F.H. Thomas Law Book Co., 1897).

259. TRELEASE, CASES AND MATERIALS ON WATER LAW (3d ed., West, 1979).

260. TURRENTINE, CASES AND TEXT ON WILLS AND ADMINISTRATION (West, 1954).

261. UVILLER, THE PROCESSES OF CRIMINAL JUSTICE: INVESTIGATION AND ADJUDICATION (2d ed., West, 1979).

262. VALENTE, LOCAL GOVERNMENT LAW—CASES AND MATERIALS (2d ed., West, 1980).

263. VERNON, CONFLICTS OF LAW: THEORY AND PRACTICE (Matthew Bender, 1982).

264. VERNON, CONTRACTS: THEORY AND PRACTICE (Matthew Bender, 1980).

265. VON MEHREN & TRAUTMAN, THE LAW OF MULTISTATE PROBLEMS—CASES AND MATERIALS ON CONFLICT OF LAWS (Little, Brown, 1965).

266. VORENBERG, CRIMINAL LAW AND PROCEDURE—CASES AND MATERIALS (2d ed., West, 1981).

267. WARREN, SELECTED CASES AND OTHER AUTHORITIES ON THE LAW OF PROPERTY (Riverside Press, 1919).

268. WARREN, CASES ON PROPERTY (2d ed., Riverside Press, 1938).

269. WARREN & HOGAN, CASES AND MATERIALS ON DEBTOR—CREDITOR LAW (Foundation, 1974).

270. WARREN, HOGAN, & JORDAN, CASES AND MATERIALS ON COMMERCIAL AND CONSUMER TRANSACTIONS (2d ed., Foundation, 1978).

271. WEINREB, CRIMINAL LAW—CASES, COMMENTS, QUESTIONS (Foundation, 1969).

272. WEINREB, CRIMINAL LAW—CASES, COMMENTS, QUESTIONS (3d ed., Foundation, 1980).

273. WESTFALL, ESTATE PLANNING PROBLEMS (Foundation, 1973).

274. WESTFALL, ESTATE PLANNING—CASES AND TEXT (2d ed., Foundation, 1982).

275. WHALEY, PROBLEMS AND MATERIAL ON NEGOTIABLE INSTRUMENTS (Little, Brown, 1981).

276. WHALEY, PROBLEMS AND MATERIALS ON SECURED TRANSACTIONS (Little, Brown, 1982).

277. WHELAN & PASLEY, *CASES AND MATERIALS ON FEDERAL GOVERNMENT CONTRACTS* (Foundation, 1975).

278. WILLISTON, *A SELECTION OF CASES ON THE LAW OF SALES OF PERSONAL PROPERTY* (2d ed., Harvard Law Review Publishing Co., 1905).

279. WILLISTON, *CASES ON CONTRACTS* (2d ed., Little, Brown, 1922).

280. WILLISTON, *CASES ON CONTRACTS* (3d ed., Little, Brown, 1930).

281. WILLISTON, *CASES ON CONTRACTS* (5th ed., Little, Brown, 1949).

282. WORMSER & CRANE, *CASES AND OTHER MATERIALS ON PRIVATE CORPORATIONS* (4th ed., Bobbs-Merrill, 1948).